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# DEBATES IN CONGRESS.

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# REGISTER

OF

## DEBATES IN CONGRESS,

COMPRISING THE LEADING DEBATES AND INCIDENTS

OF THE SECOND SESSION OF THE TWENTY-FIRST CONGRESS:

TOGETHER WITH

### AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND THE

LAWS, OF A PUBLIC NATURE, ENACTED DURING THE SESSION:

WITH A COPIOUS INDEX TO THE WHOLE.

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VOLUME VII.

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WASHINGTON:

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1831.



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# Register of Debates in Congress.

## TWENTY-FIRST CONGRESS...SECOND SESSION:

FROM DECEMBER 6, 1830, TO MARCH 3, 1831.

### DEBATES IN THE SENATE.

MONDAY, DECEMBER 6, 1830.

This day, at twelve o'clock, the roll having been called over by the Secretary of the Senate, [WALTER LOWRIE] it appeared that there were present thirty-five members; whereupon, Mr. SMITH, of Maryland, President pro tempore, in the absence of the Vice President, took the chair, and called the Senate to order. The Secretary was directed to acquaint the House of Representatives that a quorum of the Senate was assembled, and ready to proceed to business; who returned, and informed the Senate that the other House had adjourned until to-morrow, at twelve o'clock.

TUESDAY, DECEMBER 7.

A message was received from the House of Representatives, informing the Senate that a quorum of that House had assembled, and were ready to proceed to business.

The usual standing committees of the Senate were then appointed.

A communication having been received from the House of Representatives, announcing the adoption by that House of a resolution for the appointment of a committee, on their part, to wait on the President of the United States, in conjunction with a committee on the part of the Senate, and to inform him that both Houses had organized, and were ready to receive any communication that he might be pleased to make to them, the Senate concurred in the resolution, and appointed a committee on their part.

Mr. GRUNDY, from the joint committee, subsequently reported that they had performed that duty, and had received for answer from the President, that he would, this day, at half past one o'clock, make a communication, in writing, to both Houses of Congress.

In a few minutes the annual message was received from the President, by A. J. DONELSON, his private Secretary. Five thousand copies of the message, and fifteen hundred copies of the accompanying documents, were ordered to be printed for the use of the Senate. [For the message, see Appendix.]

The bill authorizing a subscription to the Louisville and Portland canal, returned by the President with objections to it, was laid on the table.

WEDNESDAY, DECEMBER 8.

The several subjects comprised in the message of the President of the United States were this day referred to the appropriate committees. No other business was transacted.

THURSDAY, DECEMBER 9.

#### THE CURRENCY.

On motion of Mr. SANFORD, of New York, it was *Resolved*, That a select committee be appointed to consider the state of the current coins, and to report such amendments of the existing laws concerning coins as may be deemed expedient.

#### HONORS TO THE DEAD.

Mr. ELLIS said, that, in consequence of the lamented death of his late colleague, the Honorable ROBERT H. ADAMS, he rose to present a resolution to the consideration of the Senate. The deceased was a native of Rockbridge county, Virginia. After completing the course of his education in Washington college, he studied law, and at an early period emigrated to Knoxville, in Tennessee, where he pursued his profession with unremitting zeal and great success. To a mind at once clear and comprehensive, it appeared perceptible that his prospects would be more flattering in the lower country, and he removed to Natchez, Mississippi, in 1819. There, in the midst of a numerous and talented bar, without fortune or family influence, by the force of high intellectual endowments and pleasing manners, he rapidly rose to the highest honors of his profession. Surrounded, as he was, by an intelligent and extensive acquaintance, he was not long permitted to enjoy the enviable distinction arising from professional merit alone. In January last, he was called by the Legislature of his adopted State to a seat in the councils of the nation. Here he was too well known to require eulogy. Mr. E. would only say, that the death of so young a man, distinguished as he was, must be a loss to the nation. It was publicly, deeply, and universally deplored in the State which he had the honor in part to represent. He, therefore, moved the following resolution; which was unanimously adopted:

*Resolved, unanimously*, That the members of the Senate, from a desire of showing every mark of respect to the memory of the Honorable ROBERT H. ADAMS, deceased,

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Impeachment of Judge Peck.—Post Office Department.

[DEC. 13, 14, 15, 1830.]

late a Senator of this body from the State of Mississippi, will go into mourning for one month, by wearing crape on the left arm.

Mr. KANE, of Illinois, said, that a paper which he had presented on the first day of the session, announced to the Senate the decease of his late colleague, JOHN McLEAN, of Illinois. He died, after a short illness, at his residence, on the 14th day of October last. Though not a native of the State which he represented, he might well be claimed as one of the favorite sons of Illinois. He had removed there at an early age. There he commenced his career in life; a career of usefulness and distinction, which had fallen to the lot of few in that region of country. In private life, he was remarkable for his benevolence, frankness, and independence of character. No one in the circle in which he moved had a larger share of the confidence and affections of his fellow men. He was by profession a lawyer, possessed of a vigorous mind, a rapid but easy elocution. These qualifications, added to an honesty of purpose, universally accorded to him, raised him to the front rank of his profession; and there sustained him. As a statesman, the people of Illinois would long remember him as the author of many of the most valued portions of their statute books, and as the acute and able presiding officer over the deliberations of the most numerous branch of their Legislature. Mr. McLEAN had been twice elected to a seat in the Senate of the United States, and his last election was the result of the unanimous vote of the members of both branches of the General Assembly. In the state of things which then existed, no stronger evidence of the general esteem in which he was held by those who knew him best could well be given. In order to pay a proper respect to the memory of such a man, Mr. KANE moved the adoption of the following resolution; which was unanimously agreed to:

*Resolved, unanimously,* That the members of the Senate, for the purpose of showing a proper respect to the memory of the Honorable JOHN McLEAN, deceased, late a Senator from the State of Illinois, will go into mourning for one month, by wearing crape on the left arm.

On motion of Mr. ELLIS, of Mississippi, it was also

*Resolved, unanimously,* That, as an additional evidence of respect to the memory of the deceased Senators from Mississippi and Illinois, the Senate do now adjourn, to meet on Monday next, at eleven o'clock.

MONDAY, DEC. 13.

#### IMPEACHMENT OF JUDGE PECK.

A message was received from the House of Representatives, announcing the adoption by that House of a replication to the answer and plea of Judge Peck to the article of impeachment exhibited against him by them.

At twelve o'clock, the Court of Impeachment for the trial of Judge Peck, of Missouri, was opened in due form by proclamation from the Marshal of the District of Columbia. The Senators were ranged on two sets of benches, covered with green cloth, to the right and left of the Chair occupied by the President of the Senate.

On motion of Mr. WOODBURN, the Secretary was ordered to inform the House of Representatives, that the Senate had organized itself into a Court of Impeachment for the trial of James H. Peck, judge of the District Court of the United States for the district of Missouri, and were ready to proceed to the trial; and that seats had been prepared for the reception and accommodation of the members of the House of Representatives.

Shortly after the order was passed the respondent, accompanied by Mr. WIRT and Mr. MEREDITH, his counsel, appeared at the bar of the Senate. They were conducted to seats, with a table before them, prepared for their convenience.

In a few minutes, the managers, to conduct the im-

peachment, on the part of the House of Representatives, also came in, and took their seats.

Mr. BUCHANAN, one of the managers, rose and said, that the managers, on the part of the House of Representatives, were ready to present the replication of that House, to the answer and plea of James H. Peck, judge of the District Court of the United States for the district of Missouri, to the articles of impeachment exhibited against him by that body. He then read the replication, as follows:

"The House of Representatives of the United States, having considered the answer and plea of James H. Peck, judge of the District Court of the United States for the district of Missouri, to the article of impeachment against him, by them exhibited, in the name of themselves, and of all the People of the United States, reply, that the said James H. Peck is guilty, in such manner as he stands impeached; and that the House of Representatives will be ready to prove their charges against him, at such convenient time and place as shall be appointed for that purpose."

The Court, after some preliminary business, adjourned to Monday next, and the Senate till to-morrow.

[The notices of this trial, which will be found in the following pages, embrace only such reports as were given from day to day, through the columns of the National Intelligencer, for the public information, and to convey a general idea of the merits of the case, and the course and character of the trial. They are mere sketches, and are to be received as such only. A full report of the trial—the testimony and the arguments of the managers and counsel—making a large volume, has been published separately.]

TUESDAY, DECEMBER 14.

This day was principally consumed in receiving and referring petitions, and in the consideration of Executive business.

The Senate elected the Rev. HENRY VAN DYKE JOHNSTON to be their Chaplain for the current session.

WEDNESDAY, DEC. 15.

#### POST OFFICE DEPARTMENT.

The Senate took up for consideration the following resolution, which was yesterday submitted by Mr. CLAYTON:

*"Resolved,* That a committee be appointed to examine and report the present condition of the Post Office Department; in what manner the laws regulating that department are administered; the distribution of labor; the number of clerks, and the duties assigned to each; the number of agents; where and how employed; the compensation of contractors; and, generally, the entire management of the department; and whether further, and what, legal provisions may be necessary to secure the proper administration of its affairs."

Mr. WHITE had no objection to the proposed inquiry; but he felt generally indisposed to the raising of special committees, where the subject matter of a resolution belonged properly to a standing committee. He, therefore, hoped that the honorable mover of this resolution would so modify it as to refer it to the Committee on the Post Office and Post Roads, unless he could assign some reason for sending it to a special committee.

Mr. CLAYTON expressed the opinion that this inquiry was not necessarily the business of the Post Office Committee. That committee had arduous and important duties to perform. The session would be short, and they would probably not have time to attend to any other matters than those which ordinarily belonged to them. He thought that the importance of the subject now proposed required its reference to a special committee. He did not, therefore, feel inclined to accede to the suggestion of the Senator from Tennessee.

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Post Office Department.

[SENATE.]

Mr. WHITE said he would then move that the resolution be so modified as to refer it to the Committee on the Post Office and Post Roads. There was nothing in it which was not proper for reference to the regular committee. If the whole affairs of the department were to be examined and considered, the investigation would impart to that committee a fund of information, which would prove useful to them hereafter.

Mr. HOLMES hoped that the resolution would not be so amended. A great deal of labor would have to be performed by this committee. It would be their duty to examine the department well; to see how the business in it was done, and to present the result to the Senate, that they might act upon it as circumstances might require, and the information obtained might go forth to the public for their consideration. It had been understood that a new bureau for removals and appointments had been established in the Post Office Department; a bureau, which, for brevity, might be called the bureau of proscription. It has had a good deal to do: it had done a good deal: its business must be nearly at an end. All had probably been touched by it, whom it could well lay its hands on. Its services might now, perhaps, be dispensed with. He also hoped that the time would soon come when the department could pay all the expenditures with the receipts of the year. It appeared that upwards of eighty thousand dollars had been taken out of the surplus fund to defray the expenses. He admitted that this fund had been also heretofore diminished; but he trusted that it might not be hereafter necessary to apply to it. He was in favor of referring this examination to a special committee, whose particular attention should be directed to that object.

Mr. GRUNDY said that, a member of the Post Office Committee, he ought, perhaps, to be sparing in his remarks on the question before the Senate. Gentlemen were, however, mistaken as to the burthen of business which that committee had to perform. They had nothing to do, except what might be specifically imposed upon them by the Senate. He was indifferent about the disposition which might be made of this resolution, but the duty of the Post Office committee was connected with the business of that department. It was a duty especially assigned to them. They were to ascertain what laws were defective, and in what manner they should be amended. He did not object to the proposed scrutiny; and if it were committed to other members, he should cheerfully acquiesce. He was no fonder of labor than other gentlemen. If the examination were assigned to the Post Office Committee, he, for one, would be willing to engage in it.

Mr. HOLMES observed that the practice of referring duties of this kind to special committees was not novel. It was not unusual in the other House. When there, he had been a member of a committee of investigation. The House had given them the power to send for persons and papers. Some of the heads of Departments had been brought before them. The committee had made a thorough examination, and had discovered some abuses which required correction. A new administration was now in power, and it might be well for the Senate to take a peep behind the Executive curtain. In the Post Office Department great changes have been made; mistakes, errors, abuses, might have crept in. It was, therefore, proper, in order that the subject might undergo a full and thorough examination, that it should be referred to a special committee.

Mr. NOBLE said that he did not mean to be tedious, but he should tell the truth. Great complaints had been made against this department. There was Obadiah B. Brown—he did not wish to be rough—and there were the relations of Richard M. Johnson, of Kentucky, who had large contracts with that department for carrying the mail. Worthy and honorable citizens felt aggrieved at the favoritism shown by this department. It was well

known, that in that and other departments of the Government, they who were the most in the habit of dancing attendance, were the most successful in their applications. Rash as this declaration might be considered in him, he had said it, and he should not retract. Let these departments be brought to the bar of justice, and tested by their conduct. If he were one of the majority, he would not withhold an inquiry into the conduct of any officer, even from Andrew Jackson down to the humblest menial. He meant in this remark no allusion to the high minded and honorable public officers who differed from him in politics. He respected them as much as any gentleman. A star from the West would shortly appear here. He hailed its approach. Mr. NOBLE then inquired of the Secretary, who was the chairman of the Committee on the Post Office and Post Roads? And, upon being informed by the chair that it was Mr. GRUNDY, he inquired whether Mr. BINN, of Kentucky, was not also a member of that committee? [The CHAIR said not.] Mr. NOBLE said that he meant no disrespect by the question. Mr. BINN was the chairman at the last session, and he had thought that he was a member at present. He declared that a rigid committee was required on the present occasion. The sooner the Augean stable was cleansed the better. It would be better to have a special committee for the purpose. He referred, as a precedent in point, to a similar investigation into the General Post Office affairs some years ago, by a special committee, of which that distinguished reformer, the present Secretary of the Treasury, had been the chairman. He also alluded to that other chief of reformers, whose late message had shut up the great outlet of the West.

Mr. BELL said, that many complaints had been made concerning the Post Office Department. They had lately been more general than at any other time. He did not say that they were well founded, but they deserved the attention of the Senate. It had been the general practice to refer particular investigations into the manner in which executive duties of the Government had been performed, to special committees. He did not know why this practice should be departed from on this occasion. It was proper that this inquiry should go to gentlemen disposed to make the most thorough investigation. If gentlemen were convinced that the complaints were unfounded, they ought to permit those to make the investigation who were impressed with the opinion that an investigation was necessary, because a report from such a committee in favor of the Department would be satisfactory to every body. It was due, therefore, to those who desired the inquiry, as well as to the Postmaster-General himself, that it should go to a special committee. These reasons induced him to vote against the motion to amend.

Mr. KING said, that gentlemen seemed to treat this subject as if any member of the Senate were opposed to the inquiry.

Mr. BELL explained. He assured the gentleman from Alabama that it had not been his intention to make any such suggestion.

Mr. KING considered that the Post Office committee was composed of as honest and as honorable men as any other members of the Senate. As to their having too much to do, it was notorious that they had little or nothing to do, until after the Post Office Committee of the House of Representatives had made their report. Unless some effect different from a fair exposition were intended or expected from this inquiry, he could imagine no reason for taking it out of the hands of the standing committee to which it properly belonged. Was it proposed to refer the subject to a special committee in order to impress a belief in the existence of extraordinary complaints and of abuses? He was no apologist for any department. If any head of a department had done wrong, let him be brought before a committee; let him be censured, or even

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Post Office Department.

[DEC. 16, 1830.]

punished, if punishment was proper. He did not believe that the individual now at the head of the Post Office would shrink from any investigation, if it were intimated to him that it was desired. He had administered that department with integrity, skill, and ability. His predecessor did the same. Mr. KING hoped the inquiry would be referred to the Committee on the Post Office and Post Roads.

Mr. CLAYTON expressed a hope, that gentlemen would not suppose that he wished to take this inquiry from the Committee on the Post Office and Post Roads, because of any want of confidence in them. He had no such idea. Because he had confidence in that committee, did it follow that this special and laborious investigation should be referred to them? The same argument would apply with equal force against the reference of any other proposition to a special committee. Were not other standing committees composed also of honorable men? The objection, if it were sound, would apply on all occasions. He had as great confidence as any gentleman in the judgment and ability of the Post Office Committee. Yet, on this occasion, he preferred a committee selected by the Senate itself for this special purpose. In regard to that committee having nothing to do, it was an erroneous idea. Petitions and memorials were presented every day, over and over again, and referred to that committee. They would have to examine and prepare reports on all these. The duty of the proposed special committee would be arduous and laborious. The standing committee would not have time to investigate the whole subject. Gentlemen could vote for the members of that committee as members of the special committee, if they pleased; but nothing was fairer than that the Senate should select a committee for themselves.

Mr. KING said, that the Senate was a small body. Was there a member in it who was not on some committee? If the honorable Senator had no particular objection to the gentlemen composing the Post Office Committee, and, upon his soul, he did not know who they were—why refer this resolution to other gentlemen having equally or more arduous duties to perform on other committees?

Mr. CLAYTON replied, that some of the members of the Post Office Committee had other arduous duties to perform also. The gentleman might, however, in the selection of a committee, judge for himself, as he should, in this respect.

Mr. WHITE had not expected, when he had made the motion before the Senate, as much debate as had arisen upon the subject. He had listened to it with attention; but it had not changed his original views. If the subject-matter of a resolution applied to a standing committee, the general rule was to refer it to that committee. He admitted that there were exceptions to the rule; but every object of inquiry in this resolution belonged to the Committee on the Post Office and Post Roads. There was nothing in it that could take it out of the general rule. Under this impression, he had made the motion now before the Senate. He could not believe that the Post Office Committee were so much pressed as gentlemen supposed. They had as much leisure as any other committee. They were familiar with the business of the department. It would be injustice to them to suppose that they could desire to suppress any investigation. They would no doubt give to the subject the fullest and freest examination. If any abuse existed, let it be brought to the notice of the Senate and the nation. He thought it more proper to refer the resolution to the standing committee, than to a special committee: but he should acquiesce in whatever decision the Senate might come to on the subject.

Mr. CHAMBERS concurred with the honorable Senator in the general principle which he had laid down; but he thought that it had been misapplied on this occasion. When the Committee on the Post Office and Post Roads

was created, did it enter the mind of the President or of the Senate that the duties enjoined by this resolution were to be committed to them? These duties were not of the nature of those which belonged to a standing committee. It results from the character and object of standing committees, that a vast variety of items were referred to them in the ordinary transaction of the business of the Senate. These were, generally, as much as they could attend to. He believed that, if a standing committee had even taken up any subject like that contemplated by the resolution, a knowledge of it had never passed beyond the walls of the room in which they had deliberated. Duties specifically belonging to a standing committee should go to it, as a matter of course; but the proposed inquiry was one which was peculiarly appropriate to a special committee. He did not mean to compliment; all the members on this floor stood on an equal footing. His objection was not to the integrity of the Post Office committee; but they had not been selected with a view to this investigation. This was a question of selection; and he should vote for the resolution as offered by his honorable friend from Delaware.

The question on the motion to amend, so as to refer the resolution to the Committee on the Post Office and Post Roads, was taken by yeas and nays, and the vote was 18 Yeas, and 20 Nays, as follows:

YEAS—Messrs. Baker, Benton, Brown, Dickerson, Dudley, Ellis, Grundy, Hendricks, Iredell, Kane, King, Poindexter, Sanford, Smith, of Md., Troup, Tyler, White, Woodbury—18.

NAYS—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Holmes, Johnston, Knight, Marks, Naudain, Noble, Robbins, Ruggles, Seymour, Silsbee, Sprague, Willey—20.

The original resolution, as offered by Mr. CLAYTON, was then adopted.

Mr. BELL then moved that a committee of five be appointed, by ballot, to take charge of the resolution.

Mr. GRUNDY inquired of the Chair what was the rule of the Senate in relation to the appointment of committees?

The President read the rule, by which it appeared that the power to appoint committees belonged to the Chair. That power, however, could be exercised by the Senate, by unanimous consent.

Mr. GRUNDY said that would not be given.

Mr. FOOT asked whether the rule of the Senate could not be altered or amended?

Mr. KING replied, that it could, by giving a day's notice.

Here the conversation ended, and the President announced the appointment of Mr. CLAYTON, Mr. GRUNDY, Mr. HOLMES, Mr. WOODBURY, and Mr. HENDRICKS, as the committee.

THURSDAY, DECEMBER 16.

#### EXPLANATION.

Mr. NOBLE said, he had understood that, in the report of his remarks yesterday on the resolution respecting the Post Office Department, which had appeared in the Telegraph, he had used language that had been offensive to some of his friends. He had been reported as having represented Colonel Richard M. Johnson as an agent to that Department. He had no recollection that he had made such remark. A different report of his speech had been made in the National Intelligencer. He had made allusion to some of the friends of that gentleman as having contracts with the Department. This he could not disguise. But it would have been wrong and unjust to represent Colonel Johnson as an agent of the Post Office, because he was a member of Congress, and was prohibited, by law, from accepting any office of



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*Trial of Judge Peck.*

[SENATE.]

that kind. He did not consider that it would be honorable in him to do injustice to his fellow men, whether in that House, in the other House, or out of the House, whether they differed with him in politics or not.

FRIDAY, DECEMBER 17.

After disposing of several private bills, and the consideration of Executive business, the Senate adjourned to Monday.

MONDAY, DECEMBER 20.

## TRIAL OF JUDGE PECK.

The Senate resolved itself into a Court of Impeachment, for the trial of Judge Peck, of Missouri.

The House of Representatives, preceded by their managers, Mr. BUCHANAN, Mr. McDUFFIE, Judge SPENCER, Mr. STORRS, and Mr. WICKLIFFE, came into the Senate chamber in a body, and having taken the seats prepared for them,

Mr. BUCHANAN rose and said, that the managers on the part of the House of Representatives were now prepared to proceed in this trial.

Mr. MEREDITH, one of the counsel for the respondent, desired that the witnesses summoned in his behalf might be called.

The Marshal accordingly called over their names. Some of them did not answer.

Mr. MEREDITH observed, that three of the material witnesses for the respondent were not present. We are, said he, notwithstanding, ready to go to trial.

Mr. McDUFFIE then rose, and opened the case for the prosecution in substance as follows:

Mr. McDUFFIE said, that, in opening this case, he should endeavor to reduce to the narrowest limits the preliminary view, which he proposed to take of the principles upon which he should invoke the judgment of this honorable court on the charge set forth in the article of impeachment against the respondent now upon his trial. It was unnecessary for him to attract the special attention of the court, by any exposition of the importance of the case. Every member of this honorable court must be aware of its great importance to the respondent himself, and to the country at large. He asked that patient attention, in the consideration of the case, which was indispensable to a correct decision upon it. He then proceeded to lay down the principles of the constitution and law upon the subject of contempts, and contended that Judge Peck had violated them, and had, in the summary punishment which he had inflicted upon Mr. Lawless, been guilty of an illegal and tyrannical usurpation of power. Whatever view the court might take of the powers of the judge, he maintained that no contempt had been committed. The common law of England was utterly unknown to the judicial tribunals of the United States. Upon what principle, he demanded, could it be contended that the English common law, as such, had any force in this country? Were it not that it had been partly adopted in some of the States by legislative enactments; had we not been educated in its principles; would it occur to any human being in this country that it had any existence here? It was utterly absurd to say that the common law was in force in the courts of the United States. He granted that, as respected many of our laws and acts of Congress, especially those which provided for the organization of our courts, they were expounded according to the principles and rules of the common law. Where our courts were called upon to decide cases, they must have rules of proceeding and action, and he agreed that for these they had wisely and properly resorted to the common law. These were wise rules of action for cases within the express jurisdiction of the courts. But, with regard to crimes and punishments, the principles

of the common law had no force in our tribunals. He was aware it might be said, that it was necessary for the courts to adopt some principle which would authorize them to maintain their jurisdiction by punishing for contempts committed within and against it. But the power of punishing for contempt was a high criminal power; and, although it had been exercised by courts of chancery as well as law, it was, of all others, the most dangerous that could be enforced. He maintained that the power could not legally or constitutionally be exercised so as to disfranchise a citizen, or to deprive him of his liberty and the means of his existence. The correct principle, then, was this: the courts of the United States had no power to punish for contempt, further than their own self-preservation required. It was necessary that they should possess the power to protect themselves in the administration of justice; to prevent and punish direct outrages upon the court; to prevent the judge from being driven from the bench, the jury from being assaulted, and the regular and fair administration of justice from being impeded. This power the courts possessed independently of the laws of the United States, or the common law. The right to punish in such cases was inherent. But how far did it extend? What principle of necessity, the tyrant's plea, would justify the exercise of this power? for nothing but necessity could justify it. It could be enforced only so far as to protect the courts in the administration of justice; to prevent any obstruction in their proceedings. It must be a flagrant outrage in the face of the court to justify a summary punishment for contempt. If, in such cases, our courts had not the power to protect themselves in the discharge of their high functions, it would be in vain for them to attempt to administer justice. Certain powers, however, had been imperceptibly introduced here from the common law courts of England; our judges and lawyers had been thus imbued with certain principles, which were utterly incompatible with liberty. What was the case of the respondent? He was not in court; he was not in the actual administration of justice, when the publication of Mr. Lawless was made. He claimed the power of protecting his sacred person, like the King of England, from all scrutiny! The judgment of the court had been rendered six months before the publication. The decree had been entered. There was an end to the judicial functions of the judge as to that case. But some four or five months after judgment rendered, Judge Peck, from some motive, no doubt having reference to the public interest, thought proper to come out and publish an extra-judicial opinion in the newspapers: a labored argument, prepared after his judicial functions had ceased, to make such an impression upon the land claimants in Missouri as should correspond with his own. And it was this extra-judicial opinion which he sought to protect from all scrutiny, by the principles of the common law; upon the principle that the king could do no wrong, and that the judge was, as the representative of the king, administering his justice, equally exempt from responsibility.

Was there any thing in this case to justify the exercise of such an extraordinary power, as that assumed by the judge, to commit and suspend Mr. Lawless? Was justice likely to be impeded, because, by an extra-judicial act of the judge himself, his opinion was subjected to public discussion? Suppose the article written by Mr. Lawless to have been, what it was not, an atrocious libel, founded in falsehood, an infamous and defamatory libel, where was the evil? What injury could it have done to the administration of justice? Was it a case of emergency? No, sir. It would have been an ordinary case of libel, which could just as well have been punished, through the ordinary channel of trial by jury, in two years, as any other libel. Admit the impunity of Judge Peck from scrutiny; suppose him to have been administering the king's justice, and to have been protected from all animadversion; where then

SENATE.]

Trial of Judge Peck.

[Dec. 20, 1830.]

was the necessity for inflicting punishment by a mode of trial which excluded all investigation; without any trial in fact: without investigation; without the interposition of a jury? Would any man of sense contend, on these principles, that the judges of the United States had any power, any right, to punish any libel, however flagitious, on any act of the court, after it had been done as a contempt? Had the people no right to discuss the principles of the judges of the Supreme Court of the United States? Had a South Carolina editor, for example, no right to examine the opinion of that court in the case of Cohen, and to produce it as evidence that the judges were the ministers of despotism? He demanded of this honorable court, whether there was any unmeasured language of reprobation, in which a citizen might not indulge towards a court for pronouncing an opinion, and proclaiming principles dangerous to liberty, and to the free institutions of his country? Would the Supreme Court send the Marshal to South Carolina or Louisiana to bring such an editor before them for contempt, and to punish him by the summary process of attachment? From his knowledge of that court, and of the Chief Justice, he had no hesitation in saying that they would unanimously, and with one accord, decide that they were a court of limited powers; that they did not possess any authority on the subject of contempts, except the inherent power to protect themselves in the administration of justice, and to prevent its obstruction. To support his argument, Mr. McD. adverted to the sedition law, not for the purpose of exciting any prejudice, or reviving any party feeling, in this honorable court, but as furnishing some analogy for the illustration of the present case. That law was thoroughly understood by every public man in the country. It was settled in the public mind to be an usurpation. Every man of understanding considered it to have been unconstitutional. And yet it was a mitigation of the common law of England. It exploded the monstrous heresy, that the greater the truth the greater would be the libel. But it was deemed unconstitutional. Congress were condemned not for having passed an act which mitigated the principles of the common law of England, but because they had no authority to pass any law restricting the liberty of speech or of the press; because they had conferred on the federal courts a power to punish for contempt any man who might utter or publish what they might deem a libel. Was not this a grievance? The law had been repealed: it had become universally odious. And now, the President, the Senate, and House of Representatives, together, did not possess the power which Judge Peck, representing the King of England, and administering his justice, claimed, of punishing a citizen for contempt, in daring to question the infallibility of his opinion. Whence did he derive a power which did not belong to the united functionaries of this Government? Under the sedition law, the citizen accused of a libel was entitled to a trial by jury, and to give the truth in evidence.

By its repeal, the people of the United States had decided that the President, Senate, and House of Representatives could not subject a citizen even to trial by a jury for the most defamatory libel. But here, in this case, the judge undertakes, not by the interposition of a jury, but of his own will, to punish for a contempt imagined by himself, which nobody else would have noticed or viewed as a contempt. Without law, this honorable judge claimed a power to punish, much greater than that which was possessed by every other branch of the Government united. He claimed a power to make the law, and punish under it, at the same moment. This was the most infamous and tyrannical of the whole tissue of usurpations. We had analogies in the acts of Congress bearing on this case. By the judicial act of 1789, the federal courts have the power to punish for contempts committed during the progress of a trial of any cause depending in court. In carrying this law into effect, they might punish any act

tending to impede the course of justice, any insult to the court or jury, any contempt perpetrated in the face of the court, by fine and imprisonment. The express grant of one power was the negation of another. The power conferred by this act raised a presumption that Congress had not intended to go further; that the federal courts possessed no other or greater authority in relation to contempts. He humbly conceived that the kind of punishment indicated by that act, was that by fine and imprisonment alone. If it were, it would be most extraordinary that the courts should claim the power to punish in any other way than by fine and imprisonment. Unquestionably, they did not possess any such authority. What argument, then, could justify the respondent? Although Congress had authorized only fine and imprisonment for the higher grades of contempt, the respondent claimed the power to inflict a greater punishment for the milder grades. In any view, whether we regarded the common law, the laws or usages of our own country, or of England, or the principles of the constitution, our courts and judges could not inflict a greater punishment for contempt than fine and imprisonment: they could not inflict disfranchisement: they could not deprive a man of his occupation, his inheritance, or the means of subsisting his family. Such a power was never claimed before by any tribunal in the civilized world.

It must be apparent, by this time, that the district court of Missouri had no power to punish a citizen of the United States for contempt, further than to protect the court in the actual administration of justice. Even the principles of the common law conferred no semblance of authority to punish a contempt against the majesty of a court. What was the principle assumed in regard to contempts by the courts of England? In the case of the King against Almon, which was no case at all, a mere extra-judicial opinion of Chief Justice Wilmut, found among his papers after his death, all the principles laid down in it were the principles of unmitigated judicial despotism. This ingenious and artful tissue assumed, that the judges of England, deriving their authority from the King of England, and administering the King's justice, were an emanation of his power, and that the same principle which protected the character and person of the King, as sacred, protected those of his judges in like manner. This opinion was going the whole. The judges, sitting in the seat of the King, could not be called to account for denying the writ of habeas corpus, or refusing to grant it, without making the King violate his coronation oath! This miserable tissue of sophistry and falsehood was used to justify the punishment of a fair and manly publication on the law of habeas corpus as a contempt! God forbid that any man in this country should say that the opinions of judges were not a fair subject of animadversion, or that the proceedings of this honorable body were not also open for discussion. No man, according to this doctrine, had a right to publish any thing, true or false, concerning any public functionary, disparaging him, his character, or opinions. This principle of the English courts, a district judge of the United States has had the boldness to advance to justify his judicial tyranny. Could this be law? Any publication against a private citizen was *prima facie* a libel: it was the private individual that ought to be protected from calumny. The same immunity did not belong to the public functionary. What might properly be punished for being said against a private citizen, it would be justifiable to say against a public functionary. There was hardly any thing, true or false, that ought not, with impunity, to be allowed to be published against a public man, rather than run the hazard of restricting the liberty of discussion. By the irreversible decision of the people of the United States upon the sedition law, it had been decided that you cannot punish any thing said against a public officer. A decision so unanimous as that was did not ex-



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ist on record. He would now barely call the attention of this honorable court to one or two British authorities to satisfy them that Judge Peck had been guilty of a high misdemeanor, even if we admitted the force of the common law in this country. Some of the elementary English authors carried the doctrine of contempt further than others.

Blackstone, in whose work, unfortunately for many of us, we were educated as a text book, supported the authority of the King on all occasions, and spoke of the right of the court to punish for consequential contempts. But even he did not push the doctrine as far as this tyrannical judge had done. Hawkins broadly laid down the principle, that any words, however true or false, which might be uttered, reproachful of the judge, were immediately finable by the court; but that the better opinion was, that a man could not be punished for words said against a judge not in the actual execution of his official duties. If a man said that a judge was a numskull, and deserved to be hanged for giving such an opinion, here was contemptuous as well as reproachful language; but the man could not be punished for it. This had been laid down by a writer who pushed the King's prerogative to its utmost limits. Such a man might say to a judge, out of court, "your opinion is a fair subject of investigation: I have a right to pronounce you a fool or a scoundrel." This language would not be a proper subject of indictment. He would not pretend to compare language so contemptuous and disrespectful as this to the publication, by Mr. Lawless, of "*A Citizen*," for which his majesty Judge Peck had imprisoned, suspended, and disfranchised the author. His was a respectful and harmless publication. He would produce another English elementary writer. According to Holt, it is held in England that a judicial opinion is a fair subject of discussion, provided no bad or corrupt motive be ascribed to the judge. Although he would not admit that it was punishable to say to a tyrannical judge, "you are a judicial tyrant," yet, even according to the English law, as expounded by the writers to whom he had referred, Judge Peck had no right to punish Mr. Lawless, who had ascribed no wrong or corrupt motive to his opinion in the case of Souldard. The power exercised by that judge was the most arbitrary and dangerous ever exercised by any court or judge in this country. It was a pregnant proof of the danger of such an exercise of judicial power, to say, as he would declare, that the power to punish for contempt, even in cases of necessity, was a dangerous power, a despotic power, an anomaly, utterly incompatible with liberty, the essence of tyranny and despotism. It was the very illustration of tyranny, that a judge might make the law, fix the punishment, and punish, at the same time. Could any man doubt that Judge Peck had assumed the right to punish a contempt against his sacred person; that he had fixed the punishment, and enforced it too; that he had performed the functions of legislator and judge in his own case? Could any man doubt that this judge, to gratify his vindictive passions, had, by an arbitrary and summary process, deprived an American citizen of his rights, subjected him to an ignominious confinement in prison, and deprived him of the means of supporting his family? Was not such a man a judicial tyrant, whose crimes called aloud for exemplary punishment?

Mr. McDUFFIE then proceeded to call the attention of the Court to the publication of "*A Citizen*," which Judge Peck alleged to be a libel, punishable as a contempt; and he analyzed it paragraph by paragraph, comparing it as he went along with the opinion of the judge, on which it was a commentary, and with the answer to the article of impeachment, in order to show that it was not even a misrepresentation, much less a disrespectful contempt, of the opinion of Judge Peck. By this analytical process also, he would demonstrate that the conduct of that judge to

Mr. Lawless presented the strongest illustration of judicial despotism that had ever been exercised, from the first dawn of civil liberty to the present day. It must have required all the disordered imagination and furious passion of this judge to distort into a contemptuous libel one of the most innocent publications ever issued from the press. As God was his judge, if he did not know the respectable counsel of the respondent, he should say, from the defence of the judge, that he must have been deranged. No man in his senses could have tortured the publication of Mr. Lawless as he had done. In the case of Souldard's heirs, although the judge had decided against the claimants, he said, in his published opinion, that it was still open for the discussion of counsel. Mr. Lawless, therefore, commenced his publication, with an unbecoming humility to the court, such as no citizen ought to have manifested, by saying that he would avail himself of the permission granted by the judge, to point the public attention to some of the principal errors which he thought he had discovered in his opinion. This very apology had been seized on by this jealous tyrant, and tortured into an insult upon the court. The judge alleged that he had not said the case was open for newspaper discussion; nor had Mr. Lawless said so. But the judge seemed to suppose that Mr. Lawless had discovered a secret; that by the publication of his opinion, Judge Peck had shown so little sense of judicial decency and decorum as to invite a newspaper discussion of a case which had been decided in his court. And this was the insult which Mr. Lawless had committed! This was the congeries of ridiculous absurdities uttered by the judge; this was the defence which he had dared to make before the highest tribunal in the United States! Such an idea never could have been conceived by any man of understanding. Humbly as the judge might estimate the land claimants in Missouri, no one of them would have been so deficient in common sense as to have put the construction which he had put on the apology of Mr. Lawless. Mr. McD. then consecutively and critically examined every specification in the publication of "*A Citizen*," with the commentary of the judge upon it; and, in relation to the first, he remarked, among other things, that, with due deference to Mr. Lawless, he thought the only crime he had committed was a violation of grammatical accuracy; a blunder which, he believed, was common to the Irish and Scotch Irish; he had construed a want of power in a sub-delegate of Louisiana to grant land for services rendered, or to be rendered, into a prohibition from making such grants. And for this monstrous and flagitious blunder in the King's English, committed by Mr. Lawless in the presence of his honor Judge Peck; for thus wounding the vanity of the judge, clothed in a little brief authority, Mr. Lawless was charged with the suggestion of a falsehood, and sent to prison for a contempt! In the progress of his analysis, Mr. McD. endeavored to demonstrate, that many of the interpretations put by Judge Peck upon the publication of Mr. Lawless could have been conceived only by the very spirit of judicial cavilling; by none but a tyrant in the meridian of his tyranny; by nothing but the very genius of despotism in its maddest freaks. He pronounced Judge Peck himself to be the most accomplished libeller that had ever appeared in a court of justice, and declared that his whole commentary upon the publication of "*A Citizen*," was a tissue of libels offensive to decency. The charge of falsehood, absurdity, libel, ran through it; it was the phantom which haunted his imagination when he sent this man to prison. Frail would be the tenure by which the people would hold their liberties, if an American citizen could be punished by a judge for the coinage of his own brain; if, frantic with rage, by a species of school-boy cavilling, he might perpetrate this indignity upon an American citizen!

Mr. Lawless had a full knowledge of the facts and the laws in relation to land claims in Missouri at the time of writing and publishing the article for which he was pun-

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ished. He had approached much nearer to grammatical and substantial accuracy than had been supposed by Mr. McD. yesterday. He had correctly represented the opinions of Judge Peck. The judge had, nevertheless, declared, in his answer, in relation to almost every specification in the publication of Mr. Lawless, that it was untrue. Were Mr. Lawless the judge, Judge Peck himself would be liable to be attached and punished for contempt; but God forbid that Mr. Lawless should, in that event, have the power to decide upon his own case. That gentleman had, in his publication, imputed to the judge the doctrine that the regulations of the Governor General of Louisiana had the effect of annulling the grants of lands for services. It was fortunate for Mr. Lawless that this case had occurred in 1826, before the great national question of nullification had been raised: if it had not, Mr. Lawless might have been attached and punished for charging Judge Peck with nullifying the regulations of the Governor General. The vanity of the judge had been cut, by giving his opinions without his remarks. Mr. Lawless had given the substance, stripped of the feathers. He had dared, with sacrilegious hands, to tear the opinion of the judge from his sacred context, and to give it to the public without his arguments; and for this he was to be sent to jail, disfranchised, and deprived of his rights.

Having completed his analysis of the publication of Mr. Lawless, of which no sufficient idea can be formed from this imperfect report, Mr. McD. appealed to the candor of the honorable court, to say whether that publication contained a solitary word or syllable disrespectful or contemptuous to the court or the judge. It would be difficult for them to lay their finger upon any political or other publication so perfectly respectful as that was. Was there in it a word of censure or of reproach? It was the practice in South Carolina for every lawyer to make his own statement of any exceptions which he may take to an opinion of the judges in the courts below, and to lay it before the same judges, who constituted the Court of Appeals in that State. There was not one case in one hundred of that description in which the lawyers were as correct in giving the opinion of the judges as Mr. Lawless had been in representing the opinion of Judge Peck. They were not expected to give the dress and the feathers of the judge. They were expected to give the opinion as they understood it. Mr. McD. said he had never made a statement in a bill of exceptions as correctly as that which had been made by Mr. Lawless, in his publication, of the opinion of Judge Peck. Differing, as he did, from the judge, it was natural that he should put a different construction upon his opinions; but for this no lawyer in that State had ever been sent to jail. Every man, whether in our courts or in the gladiatorial halls of legislation, was liable to have his argument misunderstood and misrepresented: but he did not wince at this, or rise up on every occasion, and say, I did not make that remark, or that argument. Was every man to be punished for misconceiving an argument or an opinion?

The Secretary having, at the request of Mr. McD., read to the court the publication of Mr. Lawless, that honorable manager appealed, with perfect confidence, to the court, to say whether a more harmless or respectful publication could have been made; whether a man, who could regard that publication as a contempt, and punish it by sending its author to jail, and depriving him of his right to follow his professional occupation, and of the means of subsisting his family, was not a judicial tyrant, calling for exemplary punishment at the hands of this august tribunal? According to the principles which he had cited from the English books, any subject of England might publish a commentary or an opinion of a judge, if he did not ascribe corrupt motives to it. It was public property, and liable to animadversion, provided that the fair limits of criticism were not transcended. This was

the English law. The constitution of the United States was more free, and allowed a greater latitude. What was the criticism of Mr. Lawless? Was it upon the opinion of the court? No, sir: that judgment had been pronounced six months before. The decree had been entered. Mr. Lawless had not taken exception to it after the case had been taken out of that court. The criticism was upon the long argument of Judge Peck, published in a newspaper, after the judgment had been rendered. The case was pending before the Supreme Court of the United States; and Judge Peck might have been attached for a contempt of that court, in publishing his argument in the newspapers, upon much better grounds than those upon which he attached and punished Mr. Lawless. The opinion of Judge Peck, as published, had not been delivered in term time; it was published in vacation. Mr. Lawless had just as much right to criticise it as the Judge had to publish it; and it was entitled to no more respect than if it had been delivered on the hustings. We had heard much about judicial decency and decorum. Judge Peck had misconceived both by going into the newspapers; and his published opinion was not entitled to the decent and respectful notice which it had received from Mr. Lawless. Any citizen possessed a full, free, and clear right to investigate that opinion. He considered the judge to have been extremely censurable, in publishing his opinion while the case was pending before the Supreme Court of the United States. Whatever might be the character of the contempt imputed to Mr. Lawless, whatever might be thought of it, the judge had transcended the limits of all authority in inflicting upon him the particular punishment which he had visited upon him for the offence. Fine and imprisonment were the only punishment of a citizen authorized by the law of England or of the United States in cases of contempt. Certainly, Congress had never delegated any power to inflict a greater punishment for the highest grades of contempt. Any officer of a court, any attorney practising in a court, for malversation, fraud, peculation, unfair dealing with his clients, for any base or disgraceful act, where convicted of fraud or perjury, might be stricken from the rolls of the court, as unworthy of confidence. For these causes, in England and the United States, the courts had assumed the power of striking from their lists of practising attorneys. But Judge Peck had not pretended that Mr. Lawless had been guilty of any of these. Did not this honorable court perceive that there was no relation between the offence and the punishment of that gentleman? Because Judge Peck's dignity had been offended, because he chose to think the publication of Mr. Lawless calculated to bring ridicule and contempt upon his court, had he a right to strike him from the list of attorneys practising in his court, and to deprive him and his family of the means of subsistence? Mr. Lawless was a lawyer, a public man, in relation to the pecuniary interest of hundreds and thousands of the citizens of Missouri: they had a right to his professional services, and this tyrannical judge had said that he would deprive him of his and their rights. He had exercised a tremendous power, not called for by any public consideration, nor justified by any law, but originating in the malevolent passions of the petty judge by whom the sentence had been pronounced. Having presented to the court the facts and the grounds upon which the managers, on the part of the House of Representatives, prayed its judgment in this case, Mr. McD. would offer a few general remarks on the danger, the real, great, and alarming danger, of the precedent which would be established by this honorable court, if Judge Peck should be suffered to go unpunished for this high misdemeanor.

He had violated the liberty of the press in the most dangerous form. He had violated the right of trial by jury, by drawing to himself the power to try and punish, in a summary manner, an offence, which, if it were one, was a proper subject of ordinary indictment and trial.

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And he had defended his tyrannical conduct by the allegation, that the charge of violating the liberty of the press was the stale declamation by which demagogues, slanderers, and libellers, attempted to justify themselves, and to bring the Government into contempt. He trusted that liberty, the liberty of the press, was not thus to be laughed and sneered out of the capital of the United States by a petty provincial judge. When a European monarch had been hurled from his throne for daring to violate the liberty of the press, were we to be told that the liberty of the press was only the theme of demagogues? Tyrants, alone, would so designate it. It had been justly said, that the liberties of mankind could not survive the destruction of the liberty of the press. Even Hume, the English historian, the apologist of tyrants, had declared, that no people having the liberty of the press could be enslaved. He had said, that the only difference in Government, between his time and the reign of Elizabeth, was, that, when he wrote, England enjoyed the liberty of the press; that, with this privilege, Turkey herself would be comparatively free. And yet we are told by this judge, that this was the theme of demagogues. He called upon this honorable court to look at the danger of the precipice on which they stood, if they set the precedent of acquitting this judge. Suppose he should be condemned by this tribunal; suppose he should go back to Missouri, and proclaim that he had been made the victim of party feeling, as he had said in defence before the other House, where he had grossly reflected upon that House; suppose, that when he arrived in Missouri, he should make the welkin ring with his charges against this court; would they, after the sedition law had been driven from the statute book, make themselves the legislators, and judges, and executioners, of the law, by punishing Judge Peck for his calumnies against them? Would any man think of sending for him to answer for the free investigation which he might think proper to indulge in? Would this honorable court act upon the principle which they would consecrate by the acquittal of Judge Peck? And yet such would be the tendency of his acquittal. Every editor in the United States was liable to be immured within the walls of a prison, upon the principles asserted by Judge Peck, unless this honorable court would say that it would be extremely dangerous for the President, Senate, and House of Representatives, to punish editors for the daily calumnies published upon them, as Judge Peck had punished Mr. Lawless. Should the Senate of Rome not punish a libel, and yet delegate the power to punish to its provincial proconsuls? Should it be said that a proconsul, reeking with the blood of his fellow-citizens, may exercise a power, may be trusted with this power, rather than the Senate of Rome? It was said that the King of England could do no wrong; and that the judges, deriving their authority from him, and administering his justice, were entitled to an equal protection. Judge Peck derived his power from the President and Senate. You may slander them as much as you choose; and yet you may not slander this pitiful emanation of their authority.

Mr. McD. contended that, if any public functionary ought to be held responsible to the press, which was the organ, the only true organ, of the people, it was the judges, who alone held their offices during good behavior. If you would preserve the independence of the judiciary, make them do their duty, and punish them for transgressing it. In this age, when tyrants were overwhelmed, and thrones overturned, for violating the liberty of the press, would you suffer your judges to trample upon it with impunity? He had always been in favor of the independence of the judiciary, and against the rotatory principle; but if the doctrine, that the judges were not liable to the animadversion of the public press, be established, God forbid that he should permit the independ-

ence of the judiciary to continue for a moment longer than he could help. A judge was as impalpable as air, if you could not reach him through the public press. You must permit him to go on with his outrages, without complaint, until you could bring him before this august tribunal. You might bring him to account here, but no where else. Had we come to this, that we may not call a judicial tyrant by his right name; that we may not call him to account for his crimes and misdemeanors? In the worst days of Paris the cry of tyranny was allowed. "Down with the tyrant!" was echoed and re-echoed from one end of Paris to the other. But when a judge committed an outrage, we may not characterize it in the appropriate language.

It was in vain to attempt to disguise it. If this judge should be held guiltless, there could be no judicial outrage which would not be clearly justified by the precedent. It had never occurred to a majority, in the most inflammable times, to punish so harmless an article as that for which Mr. Lawless had been punished. The precedent of an acquittal in this case would justify any judge in laying down any principle to justify such an outrage. The most insidious encroachments of power would be sanctioned by precedents of this kind. It was no extravagant supposition to imagine that this Government might, at some period hereafter, be administered under the influence of party passions; that a party might get into power by intrigue and management, and that it might occur to that party, consisting of a minority, to attempt to maintain their power by muzzling or suppressing the freedom of the press. They might not pass a sedition law, but they might appoint ten thousand district and territorial judges; they might send justices of the peace into every town and parish in the Union; and each of these, upon the doctrine of Judge Peck, might drag an editor before him, punish him for contempt, and thus destroy the liberty of the press. It was impossible to tell the extent to which this principle might be carried by party judges, in party times. It must appear much better, in the view of every statesman, to suffer the most unjust libels to be published in the newspapers, and to let their poisoned arrows recoil upon themselves, than to suppress the liberty of the press. But what was the liberty of Mr. Lawless, according to the practical doctrine of Judge Peck? It was the liberty of being sent to prison, incarcerated with common felons, and deprived of the means of his subsistence, for respectfully differing in opinion with the judge.

A wise man of antiquity, upon being asked what was the best form of Government, justified the character which he had received by the answer, that that was the best in which an injury done to a single citizen was felt as an injury done to the whole community. There was not a man in the country that ought not to make the injury done to Luke E. Lawless his own. We were told that he was an Irishman. He deserved infinite credit, when ordered to prison, for the moderation which he exhibited, for not dragging the tyrant, as Virginius had dragged the tyrant Appius, from the throne. As God was his judge, he believed, that if the case of Mr. Lawless had been his; if he had been ordered to prison, he and his family, and deprived of the means of subsistence, he should have dragged him from his seat on the bench. He had his whole life lived in abhorrence of despotism, in every shape, whether in a judge, or an overseer of slaves; and he considered that this petty judge had been guilty of tyrannical conduct which would have disgraced a slave-driver.

TUESDAY, DEC. 21.

The Senate again resolved itself into a Court of Impeachment.

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[DEC. 22, 23, 1830.]

The House of Representatives came into the Senate Chamber and took their seats.

Mr. McDUFFIE resumed the floor, and concluded his opening speech, commenced yesterday, against the respondent. [The remarks made on both days are embodied above, instead of dividing them, as delivered.]

Mr. BUCHANAN then offered the documentary evidence in behalf of the prosecution.

The Court then adjourned.

### WEDNESDAY, DEC. 22.

The Senate again resolved itself into a Court of Impeachment.

The day was occupied in receiving the testimony of LUKE E. LAWLESS, and in examining him. Before the cross-examination was finished, the Court adjourned.

### THURSDAY, DECEMBER 23.

At twelve o'clock the Senate again resolved itself into a High Court of Impeachment.

The cross-examination of Mr. LAWLESS was resumed, and continued during the whole of the sitting of this day. In the course of that examination, both yesterday and today, a variety of points were raised, and argued with great ability by the Managers and the Counsel for the respondent, on the admissibility of certain questions propounded to the witness. The most important of these, and that the decision of which will probably protract the cross-examination at least a day or two, was the point, whether Mr. Lawless should be required to say, whether certain designated passages in the opinion of Judge Peck, in the case of Soulard's heirs, were the parts of that opinion upon which he based the assertion, made in the publication of "A CITIZEN," that Judge Peck had assumed the position, "that, by the Ordinance of 1754, a sub-delegate under the Spanish Government of Louisiana was prohibited from making a grant of lands in consideration of services rendered, or to be rendered?" The Senate, after ingenious and able arguments by Mr. BUCHANAN and Mr. STORNS, in behalf of the Managers, and by Mr. WIER, in behalf of the respondent, decided, by a vote of thirty-two to ten, that the question might be put, and must be answered. This will, it is supposed, lead to a similar examination of the witness in relation to the grounds upon which he advanced all the propositions contained in his publication on the opinion of Judge Peck, for which he was committed and suspended from practice by the judge.

The narrative part of the testimony of Mr. Lawless will afford the means of information to the general reader as to the circumstances which have led to this impeachment. It is therefore subjoined. Let it be remembered, that the heirs of Soulard filed a petition in the District Court for Missouri, of which the respondent is and was the Judge, to try the validity of their claim to ten thousand arpents of land, under a concession alleged to have been issued by Trudeau, the Lieutenant Governor of Upper Louisiana, to Antoine Soulard, the ancestor of the petitioners. Mr. Lawless was the counsel in the case.

LUKE EDWARD LAWLESS, Esq. having been called and sworn, gave a historical narrative of the proceedings, so far as related to the case of Soulard, in the District Court of the United States, for the State of Missouri, under the act of Congress of 1824, enabling the claimants to lands in Missouri and Arkansas to institute proceedings to try the validity of their claims, and in relation to the circumstances which had led to his commitment and suspension by that court. He testified, in substance, that, in the case of Soulard's heirs against the United States, he had, as counsel for the plaintiffs, argued it on a general demurrer. It was thought by some of the profession whom he consulted, that it would be well to have his argument printed; and it

was accordingly printed. Upon the exhibition to him by Mr. BUCHANAN, one of the honorable managers, of one of the printed copies of the argument, he said that it was the same. The demurrer was subsequently withdrawn; and the District Attorney filed his answer to the petition of the claimants. While taking the deposition of one of the former Lieutenant Governors of Upper Louisiana, Judge Peck mentioned that he had read, or had caused to be read to him, the argument of Mr. Lawless, a copy of which that gentleman said he had sent to him before that time. When the court again sat, Judge Peck directed an issue to try the question, whether such a concession as that under which the plaintiffs claimed the lands in question had ever been made? It was found that it had been made; such as it was set forth to be in the petition of the claimants. The cause then came on upon its merits and the proofs. Mr. Lawless again argued it very much at length. This was in the spring of 1825. The court took the case under advisement, and reserved it for future decision. He was absent, and the judge decided it in his absence. Mr. Lawless was not present when the decision was made; but Judge Peck postponed making up the record for taking an appeal until the counsel returned. When he returned, the record was made up, the appeal taken, and the appeal bond given. This was in December, 1825. In March following, about the 30th, he saw, in the Republican newspaper, published at St. Louis, an article headed, "Peck, Judge," and found it to purport to be an opinion or argument in justification of the decree of the District Court entered in the case of Soulard's heirs against the United States.

It appeared to him to contain a great many errors, in fact and in doctrine. It appeared to him to be calculated injuriously to affect the public opinion upon that and a variety of other similar claims, in which he was concerned as counsel. The article was anonymous, and he looked on it as an argument not presented by the Judge, when his opinion was delivered. It produced a great sensation, tended to depress the hopes of his clients, and to depreciate considerably the value of their property. It appeared to him rather to be an inquiry of what the law should be, than a peremptory decision of what it was. In the opening of that opinion, the Judge expressed doubts as to the law, and seemed to feel as if he were wandering through a wilderness to reach the desired object. Further discussion seemed to be invited of the points involved in that decision. Taking all these considerations into view, and believing that as a citizen, independently of his character as counsel, he had an undoubted right to point out the errors in the published opinion of the judge, and to prevent, as far as he could, the injury they were likely to produce, Mr. Lawless took up his pen, and wrote the article signed "A Citizen," which was published in the Missouri Advocate and St. Louis Enquirer, of the 8th of April, in the same year. Shortly after that the District Court sat by special adjournment. He attended, and took his place in court. Upon taking his seat, and disposing of some business, the judge pulled a newspaper out of his pocket, stated what paper it was, and asked, with apparent emotion, who was its editor, addressing himself, as Mr. Lawless thought, particularly to the District Attorney, or to the bar generally. Mr. Lawless replied, that he knew who was the editor of the paper, and that it was one Stephen W. Foreman. He believed, from his manner, that the judge had in view the article which he had written; and he was perfectly willing that it should be brought up for discussion. The judge asked Mr. Lawless if he would swear to the fact as to the editor. He said he would, and was accordingly sworn. Describing the article, Judge Peck dictated a rule upon the editor, to show cause why he had published it. The rule was served upon the editor, and Mr. Lawless volunteered as counsel for him, he being the author of the article, and considering it his duty to

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defend the editor. He applied to no other person to appear for him. Mr. Lawless urged the editor by no means to give up the author, using every argument that he could to satisfy him that it was his duty not to yield on such an occasion. He appeared in court the day after the order was issued, and defended the editor on all the grounds which suggested themselves to his mind; on the ground of the perfect truth of the article, and of the absence on its face of all intention to commit a contempt. In demonstrating the truth of the article, he resorted to the published opinion of the judge, to all that the article contained, and pursued the same course of argument, with a few exceptions, as far as his humble abilities would permit, which had been taken by the honorable Manager who had opened this case. He produced all the authorities which he could rake up on the occasion, to show that the publication of "A Citizen" was not a contempt. Immediately after concluding his argument, which, he thought, had occupied more than one day, he left the court; and he understood that Mr. Geyer, a gentleman of the St. Louis bar, had also afterwards stepped forward in defence of the editor.

When Mr. Lawless returned into court, he found Judge Peck about to make the rule absolute for an attachment upon the editor. Considering that the judge appeared to point at him as the author of the article, inasmuch as the rights of his clients were involved in the case, he changed his view of the course which the editor ought to pursue, and assented to the giving up of his own name as the author. Mr. Foreman was then discharged from the rule, and a rule was made on Mr. Lawless, to show cause why an attachment should not issue against him, and why he should not be suspended from practice in that court for having written the article as set forth in the attachment. Mr. Geyer, Mr. Magennis, and Mr. Strother, members of the bar, appeared before Judge Peck, the next day, he believed, and argued the matter as his counsel. When they attempted to demonstrate the intrinsic truth of the article of "A Citizen," they were stopped by the judge, told that he had decided and disposed of that question, and that it was not open for further argument. They then proceeded to discuss the questions of pure law on the merits of the case. Their authorities and arguments on that point were overruled by the judge, who ordered the article to be read to him, paragraph by paragraph, by Mr. Bates, the District Attorney, and proceeded to examine and comment upon each paragraph as it was read. The manner of the judge, in treating the subject, was exceedingly vehement; he was more impassioned than he had ever seen him. In his observations, he permitted himself to use expressions which Mr. Lawless considered offensive to him as a man and a gentleman. The witness felt himself irritated by them, and perhaps his countenance exhibited evidences of that irritation. He was apprehensive that he might betray his feelings by some expression or gesture, and he thought it best to leave the court. He, therefore, asked his friend, Mr. Geyer, if he thought it would be a contempt for him to leave the court while the judge was speaking: Mr. Geyer thought no contempt could be inferred from his leaving the court. He rose up and left the court, and went to the Circuit Court for the county of St. Louis, then sitting, before which it so happened that a case, in which he was employed as leading counsel, was about to be tried. It was the case of some slaves, who had sued Peter Choteau for the recovery of their freedom. He was counsel for the defendant. While this trial was proceeding, he was informed by the deputy marshal the rule of an attachment against him had been made absolute by Judge Peck; and he was, therefore, obliged to leave the Circuit Court. When he appeared in the District Court, conducted by the deputy marshal, he was informed by Judge Peck, that he had a right to demand that interrogatories should be propounded

to him, as he understood him, for the purpose of enabling him to purge himself of the alleged contempt.

To this the witness replied, that he did not require any interrogatories to be propounded to him; and, if propounded, he should not answer them. He did not recollect whether he then stated any reasons to the court for declining. He tendered exceptions to the decision of the judge, with his reasons, which the judge refused to file. An order was then made out for his commitment to prison for twenty-four hours, and for his suspension from practice in that court for eighteen months. A copy of the order was put into the hands of the deputy marshal, and the witness was conducted to the jail of the county of St. Louis, locked up in a room where common felons had been imprisoned, as he was informed and believed. Mr. Souldard and Mr. Rector accompanied him, and were locked up in the room with him. After witness had been there some time, he called for the jailer, and requested him to show him the order of commitment, which he did. After he had examined it, he determined to petition the circuit court for a writ of *habeas corpus*, in order to apply for a release, on grounds which he thought he had discovered in the order itself. The judge of that court granted the writ, and decided to discharge him from prison, on the ground that there was no seal to the order or signature of the judge. He was accordingly discharged, and heard no more on the subject from Judge Peck. An order was also made out to suspend him from practice for eighteen months, and he was not restored until his suspension had expired by limitation. It appeared further, from the testimony of the witness, that he was a native of Ireland; that he left that country in 1810; that he went to France, and that he came to the United States in 1816. [It is said that he was an officer in the army of Napoleon at the battle of Waterloo.] He declared his intention in the Marine Court of New York, as soon as he arrived in that city, to apply for a certificate of naturalization as an American citizen; and he accordingly obtained his certificate at St. Louis, in 1822. He had been admitted to practise in Kentucky, both by Judge Johnson and Judge Barry, the present Postmaster General of the United States, and moved on with the tide of emigration to St. Louis, in Missouri.

FRIDAY, DECEMBER 24.

After despatching several private subjects, and spending some time in Executive business,

The Senate again resolved itself into a Court of Impeachment.

The cross-examination of Mr. LAWLESS was continued up to the hour of adjournment. It reached only to the sixth specification in the publication of "A Citizen." The searching ability displayed by Mr. WIRT on the occasion was met by unusual vigor, talent, and decision, on the part of the witness.

The Senate adjourned till eleven, and the court till twelve o'clock, on Monday.

MONDAY, DECEMBER 27.

The Senate again resolved itself into a High Court of Impeachment.

Mr. WIRT, the leading counsel for the respondent, resumed and concluded the cross-examination of Mr. LAWLESS.

TUESDAY, DECEMBER 28.

After the transaction of some minor business,

The Senate again resolved itself into a High Court of Impeachment.

HENRY S. GEYER, a member of the Missouri bar, the REV. THOMAS HORRELL, and ARTHUR L. MAGENNIS, an-



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other member of the Missouri bar, were examined, and cross-examined, as witnesses on behalf of the House of Representatives.

WEDNESDAY, DECEMBER 29.

## THE PRESIDENCY.

Mr. DICKERSON rose to offer a joint resolution to amend the constitution, so as to limit the service of any individual in the Presidency to two terms. He was understood to say, in substance, that, according to the existing article of the constitution on the subject, a President was eligible, by re-election at successive terms, for life. Usage had hitherto restricted the period of presidential service to two terms. Washington had refused to be elected for a third term; and his example, which had become a kind of law, had been followed to the present time; but it was a law so weak as to render it liable to yield to the pressure of any ambitious incumbent, who might desire to continue in office. In the Federal Convention, by whom the constitution had been framed, the principle of limiting the continuance of the President in office to a single term of seven years, had been carried on more than one occasion, but it was as often evaded. Some had been in favor of more terms than one; others had supported the election of a President during good behavior. These preferred a number of terms to a single term, and had united in the adoption of the present provision. The usage of two terms had been so long continued, that he was disposed to adopt it as a part of the constitution. It had been approved by popular opinion, and a joint resolution to that effect had, some sessions ago, been almost unanimously sanctioned by a vote of the Senate. If, however, the Senate should, at this time, prefer a single term of seven, or even of six years, he should have no objection. He then submitted the following joint resolution, promising, at the proper time, to assign his reasons in its favor:

*“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following amendment to the constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid, to all intents and purposes, as part of the constitution:*

*“That no person, who shall have been elected to the office of President of the United States a second time, shall again be eligible to that office.”*

## TRIAL OF JUDGE PECK.

At twelve o'clock the Senate again resolved itself into a High Court of Impeachment.

Mr. MEREDITH announced the absence of his friend and colleague, [Mr. WIRT,] in this case. He had been called home to Baltimore by the dangerous illness of one of his children. He felt the embarrassment of his own situation, occasioned by this unpleasant circumstance. To be deprived of the aid of his colleague at any time, or on any occasion, would to him be a cause of regret; but in a case of this magnitude, so interesting to the respondent, and so interesting to the community, to be deprived of his services was a source of deep regret. What he should, therefore, propose, with the consent of the managers on the other side, was, that they should proceed to finish the examination of the witnesses, on the part of the United States, and then that this honorable court should adjourn over to Monday next, to await the return of Mr. Wirt.

Mr. BUCHANAN said, that the managers on the part of the House of Representatives would acquiesce in whatever the court might determine to be its pleasure on the occasion.

CHARLES S. HEMPSTEAD, EDWARD CHARLESS, AND WHAR-

TON RECTOR, witnesses in behalf of the impeachment, were then called, sworn, examined, and cross-examined.

The certificate of naturalization of Mr. Lawless, the protest of the Spanish Lieutenant Governor of Upper Louisiana, against the regulations of Morales, and sundry other papers, were produced as evidence.

Mr. BUCHANAN then said, that the Managers for the House of Representatives here rested the cause of the United States.

Mr. MEREDITH renewed his application for a suspension of the trial until Monday.

On motion of Mr. TAZEWELL, the court determined to adjourn over to Monday next, at twelve o'clock.

The Senate adjourned till to-morrow.

THURSDAY, DECEMBER 30.

The Senate was principally occupied, this day, in the consideration of Executive business.

FRIDAY, DECEMBER 31.

## THE PRESIDENCY.

The joint resolution to amend the constitution in relation to the Presidential term of service, submitted on Wednesday by Mr. DICKERSON, was read a second time, and referred to a select committee, consisting of Mr. DICKERSON, Mr. WHITE, Mr. FORSYTH, Mr. BURNET, and Mr. KNIGHT.

The Senate then proceeded to the consideration of Executive business, and remained upwards of three hours with closed doors.

Adjourned to Monday.

MONDAY, JANUARY 3, 1831.

The honorable JOHN C. CALHOUN, Vice-President of the United States, appeared this day and took the Chair as President of the Senate.

After the transaction of some morning business, the Senate resolved itself into a High Court of Impeachment.

In consequence of the death of a daughter of Mr. WIRT, the leading Counsel of Judge Peck, the Court of Impeachment, on motion of Mr. TAZEWELL, adjourned to twelve o'clock on Wednesday next.

Mr. LIVINGSTON submitted the following resolution:

*Resolved, That nothing contained in any of the rules for conducting impeachments, made on the eleventh day of May, 1830, shall be so construed as to prevent any Senator, when he shall give his vote on the question of guilty or not guilty on any article in an impeachment, from assigning his reasons for such vote.*

The Senate proceeded to the consideration of Executive business, and spent upwards of two hours on it, and then adjourned.

TUESDAY, JANUARY 4.

## THE IMPEACHMENT.

The resolution submitted yesterday by Mr. LIVINGSTON, explaining the rules to conduct impeachments, so as to allow any Senator to assign his reasons for his vote on the question of guilty or not guilty, was taken up.

Mr. L. said that the resolution was predicated upon a doubt whether the rules adopted in May last did, or did not, allow Senators to assign their reasons for the votes they might give on the pending impeachment. He was rather indifferent than otherwise as to the fate of the resolution. Its object was to settle the doubts which existed on the subject; and that object would be attained, whether the resolution should be rejected or adopted. Both sides of the question presented difficulties. The Court consisted of forty eight members; and if every member were to express his sentiments, after the Managers and the Counsel for the respondent had been heard,

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a great deal of time would be consumed. On the other hand, the right to speak on the occasion was one which he considered a proper privilege; and he was, upon the whole, disposed to affirm it.

At the suggestion of Mr. FORSYTH, the resolution was laid upon the table until to-morrow.

#### NAVIGATION AND COMMERCE.

The bill to abolish the charge of ten dollars for passports and four dollars for clearances granted to ships and vessels bound to foreign ports, and to repeal the duties on cinnamon and other spices, was taken up.

Mr. SMITH, of Maryland, said that the first section of this bill had been reported by the Committee of Finance in consequence of the representation in the report of the Secretary of the Treasury, that our navigating interest was in a depressed condition. The charges for passports and clearances had been imposed in 1796, when we were in want of revenue, and for one or two other reasons which the honorable Senator stated. The revenue of the Government was now abundant; and to take off these charges, which amounted to a very small annual sum, would afford some little relief to the merchants. The second section of the bill was also predicated, in part, on the report of the Secretary, in which it had been stated that nothing was, in fact, derived from the duties on spices. From some cause or other, the drawback on these articles amounted to more than the duties. More, therefore, was lost to the Government than was gained from that source. Spices had become a necessary of life, and were freely used in every family, however poor; and as the duties on them yielded nothing to the treasury, he could perceive no reason why they should not be repealed, and why the bill should not pass.

The bill was ordered to be engrossed for a third reading.

After the consideration of Executive business, the Senate adjourned.

WEDNESDAY, JAN. 5.

#### TRIAL OF JUDGE PECK.

At twelve o'clock, the Senate resolved itself into a High Court of Impeachment. The managers of the House of Representatives, and the respondent and his counsel, having taken their seats,

Mr. MEREDITH rose and opened the grounds of defence. He said that the honorable manager, who had stated the case for the impeachment, had properly adverted to its great importance, both to the respondent and the community. To the respondent personally, it was undoubtedly of very deep interest, in its character and its consequences. He was charged with the exercise of an arbitrary, oppressive, and usurped judicial power, from malicious motives, to the great disparagement of public justice, and to the subversion of the liberties of the people of the United States. If this charge were sustained by this honorable court, the respondent would be doomed to meet not only the lasting reproaches of his fellow-citizens, but the grievous consequences of removal from office, and, at the discretion of the court, sentenced to a perpetual ostracism from the confidence and honors of his country. Considerations of this kind entitled him to the most serious, calm, and dispassionate deliberation upon his case. Other considerations called for cool and candid examination. The surest safeguard of the liberties of the people was to be found in the firm and independent administration of justice; and it became them to look to the safety of that portal which the constitution had placed around the judicial authority of the country. If the doctrine on which this impeachment had been supported were sustained, questions would arise out of the case of deep and lasting importance. His duty on the occasion was an exceedingly simple one; it was within prescribed limits; and to these he should confine himself. He had

to state the grounds of defence on which the respondent relied, with the evidence to support that defence. The transaction which had produced this impeachment could be told in a very few words. The respondent, as judge of the District Court of the United States in Missouri, had pronounced an opinion in a case of very great importance, and had been induced to publish that opinion in one of the newspapers of that country. It was already in proof, and would more fully be shown in evidence hereafter, that the opinion had been published not only at the request of the members of the bar, but of those persons generally who were interested in the case. One of the counsel concerned in it had thought proper afterwards to publish, anonymously, under the signature of "A Citizen," not a fair criticism upon it, but a bare enumeration of what he termed the errors of the Court, some of its principal errors in fact and in doctrine, some of the assumptions of the judge, without assigning any reasons to sustain the charge. This publication, to the mind of the respondent, appeared to be a gross and palpable misrepresentation of his opinion, calculated to bring his court into disrespect; and he proceeded to attach and punish its author for the contempt. After a patient hearing of two or three days; after giving to the counsel of the author every opportunity to defend him, and to him every opportunity to purge himself of all intentional disrespect to the court; after the peremptory refusal of Mr. Lawless to answer the interrogatories propounded to him, and his reassertion of the truth of his publication, Judge Peck had sentenced him to twenty-four hours' imprisonment, and to a suspension from practice in his court for eighteen months. For this the respondent had been charged with a high misdemeanor, and with the wilful and malicious exercise of an arbitrary and oppressive judicial power. Mr. M. then proceeded to state the facts and evidence by which the respondent would be able to establish the positions, that a contempt had been committed by Mr. Lawless; that the court possessed a legal warrant to punish him for the contempt; and that, if not, the judge was influenced, in the case, by a sense of official obligation and duty, and not by the wilful, malicious, and arbitrary motive and intention imputed to him in the article of impeachment. He gave a history and character of the land claims, and the transactions out of which this impeachment had grown; the arduous and perilous difficulties which the respondent had to encounter in the exercise of his jurisdiction over the alleged concessions claimed under the Spanish authorities, and the frauds, meditated and apprehended, against which he had to guard. He described the case of Souldard, which had led to this impeachment, as a select and test cause, and said that it required no prophetic spirit in the judge to foresee the dissatisfaction which an adverse decision would produce in all the claimants. It would extinguish their hopes, as long as the decision remained unrepealed, or the court unchecked. Accordingly, general dissatisfaction and dismay on the part of suitors did ensue. The Judge postponed the enrolment of his decree in the case, to enable Mr. Lawless and his associate counsel to put in their exceptions to it, or to furnish further argument upon it. This was declined by them. The judge published his opinion. The motives for its publication were summed up in his answer to the charge in the article of impeachment. He perceived that such publications were usual both in England and America, and saw no impropriety in the practice. On the contrary, the branch of law involved in the case was new; its grounds had not been fully argued at the bar, and it was proper that they should be fully opened for the deliberate consideration of counsel; it was right that their clients should see the reasoning of the court on the subject, and, if satisfactory, that they should be saved from any further expense. It was proper that they should see that the court had not hastily and inconsiderately assumed the principles upon which the opinion

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was founded, but that it had conscientiously, upon facts and arguments which it could not resist, come to its conclusion in the case. Upon these reasons, the respondent confidently relied for the justification of the publication of his opinion. Eight days after, it was followed by the publication of "A Citizen," in another newspaper. In this, the respondent saw a gross and palpable misrepresentation, calculated to bring ridicule and contempt upon the court, to provoke the resentment of the claimants towards the judge, and to break down the court by the force of public opinion. Was the respondent justified in these apprehensions? Notwithstanding the gloss put upon the subject by the comparison which the honorable manager [Mr. McDUFFIE] had instituted between the opinion of the judge and the publication of Mr. Lawless, the respondent relied upon a candid examination and comparison by this honorable court.

He would be able to show, by gentlemen familiar with the case, that he was by no means singular in attributing misrepresentation to the publication of "A Citizen." Men of intelligence, lawyers, acquainted with all the facts and doctrines of the case, looking with a single eye to see whether misrepresentation was to be found in the publication or not, would establish the fact. These same witnesses would show the effect of this misrepresentation. If Mr. Lawless's publication could be considered an accurate representation of the conclusions to which the court had come in that case, they were so preposterous, so absurd, that nothing but ignorance—an ignorance amounting to idiocy—nothing but downright corruption, could have influenced the judge. The effect of the misrepresentation had been to destroy confidence in the court; the disappointment of the claimants was converted into hostility to the judge; and so great had been the distrust and dissatisfaction, that memorials were sent to Congress, the object of which was to deprive the court of its jurisdiction over the claims, and to transfer it to another tribunal.

If, therefore, the respondent saw, or this honorable court should believe that he conscientiously thought he saw, an evil design in the author of the publication, what course would they say was left him to pursue? Painful as it was, there was but one course for him to take; and that was to guard the sacred trust committed to his charge, and to punish the contempt as he had punished it. In this, Mr. M. contended, that the respondent had been justified by immemorial usage; by the inherent power of the courts; by a power which, although sometimes questioned, had remained untouched in every political struggle that had taken place; untouched in every constitution that had been adopted in the country. It was justified by American precedents, by the best lawyers and purest patriots that ever adorned the bench. It would be shown, in due time, that the power had been exercised by all the State courts; by the highest court in the Union; by the Circuit and District Courts of the United States, in cases far more doubtful than this. The respondent was justified, in treating and punishing the publication as a contempt, not only by the statute and common law, but by the law universal, by precedent, by the decisions of all the courts in the country. But, if he were not so justified, had he been governed by the malicious intention imputed to him in this impeachment, what motive could he have had? He had not had any personal disagreement with Mr. Lawless. No previous quarrel had occurred between them. No lurking resentment existed. All their measures with each other had been of a perfectly amicable nature. Was a malicious motive to be found in the character of the respondent? It would be shown that he was mild, conciliatory, and equable in temper; respectful and patient in his deportment towards all—to the members of the bar, the subordinate officers of the court, and to suitors. Was such a motive to be inferred from the transaction itself? It would be proved, not by those who could see the trans-

action only in colors of resentment; not by witnesses who were hostile, or who were present in court only at intervals while the case was pending; but by calm, disinterested, and intelligent witnesses, who were present during the whole or greater part of the time, that the manner of the judge was not more vehement than it usually had been when his mind was deeply exercised on any subject; that it was as mild as any judge who had ever graced the bench; that the language he used on the occasion was addressed to the publication, and not to its author; and that, in fact, he looked beyond Mr. Lawless, to other and higher considerations, in awarding the attachment and punishment to which he had been sentenced.

[This is but "a bird's-eye view" of the speech of Mr. M.]

ROBERT WASH, Esq. a Judge of the Supreme Court of Missouri, was then called, sworn, and examined as a witness in behalf of the respondent. At the conclusion of his testimony—

The Court adjourned over till twelve, and the Senate till eleven o'clock, to-morrow.

THURSDAY, JANUARY 6.

After the transaction of some minor business, at twelve o'clock, the Senate again resolved itself into a High Court of Impeachment.

JOHN K. WALKER, of St. Louis, and MR. PETTIS, a member of the House of Representatives, were called, sworn, and examined as witnesses, in behalf of the respondent. Then adjourned.

FRIDAY, JANUARY 7.

The Senate again resolved itself into a Court of Impeachment.

J. B. C. LUCAS, W. C. CARR, and JESSE E. LINDELL, were called, sworn, and examined in behalf of the respondent. Judge WASH was re-examined in part.

The court then adjourned to Monday.

The Senate ordered two opinions of Judge PECK to be printed, and also adjourned to Monday.

MONDAY, JANUARY 10.

After disposing of petitions, resolutions, and some private bills, the Senate again resolved itself into a High Court of Impeachment.

MR. MEREDITH apologized for the absence of Mr. WIRT, occasioned by indisposition.

The deposition of EDWARD BATES, JOHN BENT, and SAMUEL MERRY, in behalf of the respondent, were, with the exception of certain parts expunged by agreement, and agreeably to a decision of the court, received and read as evidence. Judge CARR was again called and re-examined; and two or three other witnesses gave their testimony. The whole evidence was closed, with the exception of some papers in the General Land Office.

TUESDAY, JANUARY 11.

The Senate again sat as a Court of Impeachment.

The sitting was consumed in the production and examination of documentary evidence and oral testimony in the case of Judge PECK. The honorable Mr. BENTON was called to prove the correctness of certain extracts translated by him from a Spanish ordinance into English. Colonel LAWLESS, Mr. GYER, and one or two other witnesses were re-examined. Finally, at about four o'clock, it was announced by the managers for the House and the counsel for the respondent, that the evidence was closed, and that they would proceed with the argument to-morrow.

Adjourned.

WEDNESDAY, JANUARY 12.

The Senate again resolved itself into a High Court of Impeachment.



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*The Seneca Indians.*

[SENATE.]

In consequence of the continued indisposition of Mr. WIRT, Mr. TAZEWELL moved an adjournment of the court till to-morrow, when his physicians thought he might be sufficiently restored to attend the trial.

The court accordingly adjourned.

The Senate then proceeded to the consideration of Executive business; and, after spending some time thereon, adjourned.

THURSDAY, JANUARY 13.

The Senate again resolved itself into a Court of Impeachment.

The VICE PRESIDENT presented a letter from one of the physicians of Mr. WIRT, expressive of the opinion that he could not at present leave his room, without some danger of a relapse at a more important crisis in the pending trial, and that by Monday he would be entirely restored to health.

On motion of Mr. SMITH, of Maryland, the Court adjourned to meet again on Monday next, at twelve o'clock.

#### THE SENECA INDIANS.

The Senate resumed its legislative character, and took up the bill to provide for the payment hereafter of an annuity of six thousand dollars to the Seneca tribe of Indians.

Mr. FORSYTH said he did not recollect the particulars of this bill; but he was under the impression that the Government was under no obligation to pay the money proposed to be appropriated to these Indians. He called upon some gentleman of the committee by whom the bill had been reported, to say whether the obligation of the Government was not to invest one hundred thousand dollars for the Seneca Indians; and whether that obligation had not been performed?

Mr. DUDLEY replied, that, by the treaty with these Indians, the United States were bound to invest in the President, as trustee for them, in stock of the old Bank of the United States, the sum of one hundred thousand dollars. The charter of that Bank had expired. The money was then invested in six per cent. United States' stock. That stock having been reduced, three per cent. stock was purchased by Government for the Senecas. The Government, nevertheless, thought it their duty to continue to pay them six per cent. and did until a year or two ago. Since that time, the War Department conceived that there was no law to justify the payment of more than the three per cent. upon the amount of the investment. The Indians refused to receive it. The object of this bill was to give an authority to pay the six per cent. These Indians were much in want of the money. Some of the tribe were now here waiting for it.

Mr. FORSYTH believed the statement of the member from New York to be correct, and, if so, it appeared that the obligation of the Government had been performed. Were we then bound to give these Indians six per cent. for ever? Their hundred thousand dollars, with the profits upon the sale of that sum, amounting to twelve thousand more, were secured to them. The Government might be bound to invest the money in the most profitable stock for them, but not to secure them six per cent. He considered it best to leave the matter as it stood, or to make a more profitable investment of the money, if that could be done. These Indians had been deceived; too much indulgence had heretofore been shown to them by the administrators of the War Department; and this had been a deception, leading them to suppose that they had a claim to six per cent. per annum upon the original sum invested for them.

Mr. WHITE said the bill provided for two objects. The object of the first section was to put upon a perma-

nent footing the one hundred and twelve thousand dollars which had been invested in three per cents. for these Indians. No gentleman could doubt that it was competent for the Government to appropriate that sum permanently for their use and benefit. The object of the second section was to appropriate an additional sum sufficient to make up the difference between six thousand dollars and the three per cent. interest for 1830. Mr. Morris had purchased lands from the Seneca tribe, and had agreed to pay one hundred thousand dollars for them. That sum was to be placed in the hands of the President, as their trustee, and to be used for the purchase of stock in the old Bank of the United States, which yielded six per cent. While the charter of that bank continued, there was no difficulty on the subject. After it expired, the money was vested in three per cent. stock, which did not yield six per cent. For reasons satisfactory to them, the Government paid the deficiency annually, out of the contingent funds of the War Department, until this administration came into power. They deemed the practice improper; and the President had, therefore, presented the subject to the consideration of Congress. The simple question was, whether it would be right and better to make up the difference for one year, in preference to a misunderstanding with these Indians. He thought it would be better to make it up for 1830, and to make a similar appropriation for the present year, until the matter could be fixed on a permanent footing, than that any discontent should be permitted to exist on the part of the Indians. The investment in three per cent. stock had been made without the knowledge or consent of the Indians. They had no part in it. The Government had done it of its own accord, no doubt from the best of motives, probably because the best investment that could be made at the time. He thought the bill ought to pass.

Mr. SMITH, of Maryland, said that the Indians had always expected six per cent. If the one hundred and twelve thousand dollars in three per cent. were sold at this time, they would, he believed, produce more than one hundred thousand. He could see no objection to the bill.

Mr. FORSYTH said that his object had been answered in bringing this subject before the Senate. It was admitted that the United States had received no property from these Indians. The lands had been obtained by Mr. Morris; and because the Government had been made trustees in the case, they must pay this six per cent. in perpetuity. The simple question was, whether the United States shall now bind themselves to a perpetual appropriation of upwards of two thousand six hundred dollars per annum, merely because they had assumed to become the trustees for these Indians. Mr. F. concluded by asking the Secretary of the Senate to read that part of the treaty with these Indians, under which the obligation in question had been incurred.

Mr. SANFORD inquired what were we bound in good faith to do to those Indians? We were now ourselves construing the treaty with them. What was the understanding of the Indians of this treaty? All the acts done under it had been our own acts. By these the Indians understood that they were to receive six per cent. upon the one hundred thousand dollars. This Government had thought so. The compact had been heretofore so construed by us, and so understood by the Indians. All the changes in the investments for them had been our own acts. They knew nothing of them. The present was a new construction of the compact with them, with which they had nothing to do. It had been done without their assent. He was in favor of the bill.

Mr. SMITH, in order to obtain some information on the subject, moved to lay the bill on the table till to-morrow morning.

It was accordingly so ordered.

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*The Storm—Vessels in Distress.*

[JAN. 14, 17, 1831.]

FRIDAY, JAN. 14.

Mr. NOBLE submitted the following resolution:

*Resolved*, That the Commissioner of the General Land Office be directed to communicate to the Senate copies of all the proceedings on file in his office, relative to the location of lands in the State of Indiana, by the Commissioners appointed on the part of the State of Indiana, and the Commissioner or Agent appointed by the authority of the United States, under the act entitled "An act to authorize the State of Indiana to locate and make a road therein named;" also copies of all letters addressed to him, relating to the subject of the location of the land in question; together with the decision of the late acting Commissioner of the General Land Office on the subject.

Mr. N. said he was aware that, by the rules of the Senate, it required their unanimous consent to consider the resolution at this time. He hoped that such consent would be given. His object was to receive copies of all the evidence in the office of the Commissioner of the General Land Office, public and private, which had a bearing upon the subject embraced in the resolution which he had offered. It was a duty which he owed to the people of Indiana to make the call for the evidence, upon a subject which interested them. He was satisfied that the people of that State would never yield to the decision given to the act of Congress named in the resolution, by the late acting Commissioner of the General Land Office. He expected that the Legislature of the State of Indiana, now in session, would, by memorial to Congress, shortly represent the rights of the State by fact and law, or to some other tribunal. To meet their views promptly, when they arrive, he desired all the evidence officially, to enable the Senate to act.

The resolution was then, by unanimous consent, read a second time, and adopted.

The remainder of the day was spent in disposing of other motions, and debating the bill for the relief of Peters and Pond, of Boston.

Adjourned to Monday.

MONDAY, JAN. 17.

A message was received from the House of Representatives, announcing the resolution of that House to attend the Senate, from day to day, during the argument in the impeachment now pending against JAMES H. PECK, District Judge of Missouri.

#### THE STORM—VESSELS IN DISTRESS.

Mr. LIVINGSTON, by unanimous consent, introduced a bill to enable the President to employ, without delay, two or more vessels, with supplies of men, provisions, and other necessities, to cruise off the coast of the United States, for the purpose of supplying and succouring vessels that may have suffered by stress of weather during the present inclement season, and appropriating fifteen thousand dollars for carrying the objects of the bill into effect.

In asking leave to introduce this bill, Mr. L. said that its object was to relieve our vessels and seamen that might be on the coast at this very inclement season. Those only who had been in vessels in that situation, could realize the suffering and distress to which they and their crews were exposed. The bill was intended to enable the President to fit out two or more ships, to supply them with men and provisions that might be needed at this trying moment.

Mr. HAYNE inquired whether the object was to authorize the President to send out armed vessels belonging to the navy, or merchant vessels, and whether any estimate of the expense had been obtained.

Mr. LIVINGSTON replied, that the President would despatch on this service any vessel that might be ready for it, whether merchantmen or others. As to the amount

of the expense, he had relied on mercantile gentlemen better qualified than he was to judge.

Mr. TAZEWELL said, in substance, that he considered the bill to be unconstitutional; that, if it were based upon that article of the constitution which authorized Congress to regulate commerce, it involved a more extensive exercise of power, that of enabling the President to send vessels along the coast to pick up wrecks, than had ever been claimed, even under that clause. Before the bill could be passed by Congress, and approved by the President, the effects of the storm would be over. He doubted the power of Congress to pass the bill, and he considered that it would be very partial in its beneficial operation.

Mr. LIVINGSTON said he had not expected to hear the extraordinary objection which the Senator from Virginia had urged against the bill. He did not derive his constitutional authority for the bill from the clause for regulating commerce, but from the general power of the Government to protect commerce, and to manage our foreign relations. Whence did we derive the power to build light-houses, beacons, and buoys? What argument was there for employing the navy on such occasions, that did not equally authorize the employment of merchant vessels? He knew of none. So much for the constitutional objection. Now for the expediency of the measure. He did not think that it was to be ridiculed out of the Senate by the suggestion, that these vessels were to be sent to pick up wrecks. They were to be sent out to prevent wrecks; not to remedy the mischief, but to prevent it. The storm had now lasted four days. It was not over. The wind was still high. Vessels had been, probably, driven forty or fifty leagues from the coast. It might be days, and weeks, and months, before some of them could get into port. Their seamen might be frozen; their rigging stiff with snow and ice. In this situation, they would consider the relief proposed to be sent to them, as a messenger from heaven. The constitutional objection weighed nothing with him. If the measure were, as it would be, useful and humane, that was enough for him in the present instance. It was not New York only, but the Capes of Virginia, and elsewhere, from which vessels could be promptly despatched, to rescue our seamen from the fatigues, and dangers, and calamities, incident to this stormy season.

Mr. SILSBEE said that the proposed measure would not be confined to one port. Orders could be immediately sent to New York, Norfolk, and Charleston, to afford the relief from suffering and danger so well described by the Senator from Louisiana. Some small vessels, with beef, pork, and other articles, could be at once provided to meet ships in distress, and would truly be considered as angels from heaven. No one who had not experienced them, could imagine the distress to which our seafaring people were liable at this season of the year. As to the expense, more revenue would probably be saved by the measure than it would cost.

Mr. TAZEWELL said he should interpose no other objection than his vote to the bill. He had asked the honorable Senator from Louisiana, whether he found his authority for this measure in the power of Congress to regulate commerce? but he had received no new light upon the subject. The gentleman and he differed on constitutional questions from the bottom. He could not find this authority in the power to create and support a navy, nor in the power to control our foreign relations. What, sir! the power to protect our own ships to be found in the power over our foreign relations? He repeated, that, before this bill could pass into a law, the mischief would be done. The danger was not at Savannah, Charleston, or New Orleans; it would be greater along the coast of Maine than any where else. The storm raged there with the greatest violence. It was not contemplated to send any relief to that coast. The spots

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*Relief Vessels.—Impeachment Expenses.—Trial of Judge Peck.*

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most exposed would derive the least benefit from the measure.

Mr. SILSBEE explained. It was Charlestown, in Massachusetts, to which he had alluded. The effects of this storm were not over. They might last thirty or forty days. Vessels within one hour's sail of port might be blown off for leagues. Many vessels would be in that situation. It was to supply such ships with men and provisions that this bill has been introduced.

Mr. HAYNE moved to refer the bill to the Committee of Commerce, and suggested that this reference would enable the Senate to afford relief in the most efficient manner. He also suggested that the Government now possessed the means to extend the most prompt aid to vessels in distress. A circular from the Treasury Department could put in immediate requisition our revenue cutters for this purpose.

After one or two additional remarks from Mr. WOODBURY, Mr. SMITH, of Maryland, and Mr. LIVINGSTON, the motion of Mr. HAYNE was negatived, and the bill was ordered to be engrossed for a third reading.

Mr. LIVINGSTON then moved that the bill be forthwith read a third time, and passed.

The VICE PRESIDENT stated that this motion required the unanimous consent of the Senate before it could be adopted.

Mr. BROWN objected to it, and it could not, therefore, be received.

#### TRIAL OF JUDGE PECK.

The Senate then again resolved itself into a High Court of Impeachment.

Judge CARR appeared at the bar, and was permitted to make some explanation on a point of his former testimony.

Mr. SPENCER, of New York, a manager on the part of the House of Representatives, then rose, and addressed a very learned and able argument to the court in support of the impeachment. Having concluded at four o'clock, the court adjourned.

#### RELIEF VESSELS.

The Senate having resumed its legislative character, Mr. BROWN withdrew the objection which he had made this morning to the third reading of the bill for sending relief vessels off our maritime coast; and it was then read a third time, and passed by the following vote, Mr. FORSYTH having required the yeas and nays.

YEAS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Dickerson, Dudley, Foot, Frelinghuysen, Hendricks, Johnston, Kane, Knight, Livingston, Marks, Naudain, Noble, Robbins, Ruggles, Seymour, Silsbee, Smith, of Maryland, Sprague, Webster, Woodbury.—26.

NAYS.—Messrs. Benton, Brown, Ellis, Forsyth, Grundy, Hayne, King, McKinley, Poindexter, Robinson, Smith, of South Carolina, Tazewell, Tyler.—13.

Adjourned.

#### TUESDAY, JANUARY 18.

After receiving petitions, resolutions, and reports of committees, the Senate again resolved itself into a High Court of Impeachment.

Mr. WICKLIFFE, one of the managers of the House of Representatives, commenced an argument in support of the impeachment at twelve o'clock, and concluded at a little past three. He advanced and maintained the positions that Judge Peck had no legal jurisdiction over the publication of Mr. Lawless, even supposing it to have been a contempt, for which he imprisoned and suspended him; and that, in truth, that publication was no contempt at all. Mr. W. defended the liberty of the press with energy and zeal.

Mr. BUCHANAN and Mr. STORRS stated, for the information of the counsel of the respondent, who will tomorrow commence the argument in his defence, the addi-

tional authorities which they intended to produce in support of the impeachment.

The court and Senate then adjourned.

#### WEDNESDAY, JANUARY 19.

After disposing of some morning business, the Senate resumed the impeachment.

Mr. MEREDITH addressed the court for three hours, in defence of the respondent. Having become exhausted in physical strength before he could conclude his speech, the court, at three o'clock, adjourned.

#### THURSDAY, JANUARY 20.

The Senate spent the principal part of to-day as a Court of Impeachment.

Mr. MEREDITH continued, without concluding, his argument in defence of the respondent.

#### FRIDAY, JANUARY 21.

#### IMPEACHMENT EXPENSES.

The bill making provision for the payment of the witnesses, and of other expenses incurred in the trial of James H. Peck, District Judge of the United States for the District of Missouri, was taken up. [The bill allows each witness four dollars per day, and twenty cents mileage for travelling expenses.]

Mr. SMITH, of Maryland, said that the witnesses who had attended the trial of Judge Chase had been allowed but three dollars a day, and twelve and a half cents mileage. He wished to know the reasons which had induced the committee to increase the compensation of the witnesses and the mileage in the present case.

Mr. IREDELL replied, that when Judge Chase was tried, the pay of members of Congress was six dollars: it was now eight dollars. The committee conceived it but just to fix the compensation to the witnesses at one-half of that which was allowed members.

Mr. GRUNDY said that another consideration showed the propriety of the increase. These witnesses had come from a much greater distance than the witnesses in the case of Judge Chase. Most of them were professional men, and had, by their absence from home, lost nearly a half year's practice. He should vote for the four dollars, and would have voted for six dollars if that sum had been in the bill.

The blank in the bill was filled with the sum of twelve thousand dollars for the expenses of the trial; and, thus amended, it was engrossed, read a third time, and passed.

#### TRIAL OF JUDGE PECK.

The Senate then again resolved itself into a High Court of Impeachment.

Mr. MEREDITH continued his argument for the respondent until half past three o'clock, when the court and Senate adjourned.

#### SATURDAY, JANUARY 22.

The Senate having again resolved itself into a Court of Impeachment,

Mr. MEREDITH concluded his argument at twenty minutes past one o'clock.

Mr. WIRT then rose to address the court for the respondent. He regretted that he had been the unwilling cause of so much delay in the progress of this trial, and thanked the honorable court for the humanity of the indulgence which they had extended towards him. His friend might also have consumed much more time, in the opinion of some, than was necessary; but it would be recollected that two-thirds of that time had been used in reading precedents from the books. In a case in which the respondent was so deeply concerned, it would be a dereliction of duty on the part of his counsel, if they were

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to relinquish any of the ground which the honorable managers had deemed material to their argument; and time had probably been saved by the reading of the books which had been produced by his colleague. It would not be necessary to read them again. He should content himself with bestowing upon them a few passing remarks when he should come to the cases which they presented. Some topics which had, he could not but presume, been introduced for effect, it would be necessary for him to notice. In doing so, he begged to be understood as treating the honorable managers with every possible respect. He knew the amiable, upright, and enlightened qualities which adorned them. Whatever they had deemed of importance, he could not be so presumptuous as to pass by unregarded. It had been stated that the House of Representatives, by a large majority, in which party had no share, had voted this impeachment. What was the object of this remark? Why was it introduced here? Could it enter into the consideration of this honorable court, whether the House of Representatives had been hasty or not; whether party had influenced them in the vote which they gave for this impeachment? Would it be decorous in the respondent, or in those who were connected with him, to impeach their proceedings? He knew too well his duty to that honorable House, to this honorable court, and to his humble self, to step so far out of his way as to question the motives for this impeachment. The House of Representatives were the grand inquest of the nation. Their article of impeachment against Judge Peck was the finding of the grand jury. Would it be proper, in a case before a petit jury, for counsel to appeal to the proceedings of the grand jury; to say that they had, by a large majority, uninfluenced by party spirit, found a bill of indictment? Would not the court, in that case, stop counsel, and say to him, sir, we have nothing to do with the grand jury, or its motives; we are to try this case upon its merits, without reference to what passed in the grand jury on the subject? The finding of the grand inquest is simply the accusation. The honorable House had not come here to sacrifice a victim whom they had fore-doomed to destruction. They had done nothing more than to declare that the offence with which the respondent had been charged, was worthy of a trial. The respondent was not there, before the honorable House, upon his trial. They had sent him here to be tried. What was the fundamental feature of a trial of that sort? It was, that the accused was presumed to be innocent until he had been found guilty. But, if the remark of which he was now complaining were to have weight, that principle would be reversed. The accused was to be presumed to be guilty until proved to be innocent. He hoped to hear no more of the majority, or the motive by which this impeachment had been instituted by the honorable House. He considered such remarks improper. The respondent stood here unknown, almost alone, a stranger from the western wilds, to breast the storm of this impeachment. He trusted to this honorable court for a fair trial, and relied upon the correctness, and innocence, and purity, of his own conduct, for an honorable acquittal. He would be tried by the simple, naked facts and principles of the case, and not by the dramatic exhibition of fancied analogies which they had witnessed. Was the respondent to be involved in the turpitude of all the wicked judges of England; in the guilt of the unsparing Jeffreys, the tumultuous Scroggs, and the tyrant Bromley? He trusted not: he hoped that he would be tried upon his own merits alone. He admonished the honorable managers, that something was continually occurring to remind us of the infirmity of human reason contending against human prejudice. This must teach charity to all. He apprehended the existence of some extraordinary prejudice which had influenced and inflamed the spirit of this prosecution. He, too, might be the victim of prejudice; of that friendship which a close intimacy had produced

with the respondent. He admitted an equality of infirmity with the honorable managers. This honorable court would decide between them. To what other cause than prejudice could he impute the language in which the respondent had been held up as a judicial tyrant, a petty provincial judge, a monster, walking over the fallen bodies of the constitution and laws of his country? This picture of wickedness and horror had been sent as far as the press could range; as far as the wings of genius and eloquence could send it. Many a father in the remote parts of the country had read this account with feelings of abhorrence. With the paper in his hand, he had probably said to his son—see, what a monster is now before the Senate of the United States! If your country should ever elevate you to public station, never become such a monster as this Peck. He may no doubt have had respectable parents; he may once have been respectable himself; but see what a monster of crime, of shame, and of ignominy, he has now become! How long would it not be before this cruel error could be corrected; before it would be seen, upon the testimony of the most respectable gentlemen, that this monster was one of the most mild, patient, kind and courteous of human beings: so amiable, that, in the language of one of the witnesses, he was dear to all who knew him. He could not help ascribing the terrible picture which had been drawn of the respondent, to some unaccountable prejudice. He adverted to other topics, of which the honorable managers appeared to him to have taken a discolored and distorted view.

The respondent had been represented as an enemy to the freedom of the press; a principle sacred to all. He was represented to have scoffed at it. This judicial monster was described as having walked over the prostrate liberty of the press, and as having attempted to sneer and snarl it out of existence. Where had he said this of it? Where had he uttered one sentiment of disrespect towards the liberty of the press? Not here, certainly. But he had done so in his defence before the House of Representatives, which had been introduced as evidence here, for the purpose of establishing this charge against the respondent. Look at that defence, and see whether he has treated the liberty of the press with contempt. "It is said, that in punishing this publication as a contempt, the judge has invaded the liberty of the press." What is the liberty of the press? And in what does it consist? Does it consist in a right to vilify the tribunals of the country, and to bring them into contempt, by gross and wanton misrepresentations of their proceedings? Does it consist in a right to obstruct and corrupt the streams of justice, by poisoning the public mind with regard to causes in these tribunals, before they are heard? Is this a correct idea of the liberty of the press? If so, the defamer has a charter as free as the winds, provided he resort to the press for the propagation of his slander; and, under the prostituted sanction of the liberty of the press, hoary age and virgin innocence lie at his mercy. This is not the idea of the liberty of the press which prevails in courts of justice, or which exists in any sober or well regulated mind. The liberty of the press is among the greatest of blessings, civil and political, so long as it is directed to its proper object, that of disseminating correct and useful information among the people. But this greatest of blessings may become the greatest of curses, if it shall be permitted to burst its proper barriers. The river Mississippi is a blessing to the country through which it flows, so long as it keeps within its banks; but it becomes a scourge and a destroyer when it breaks them. "The liberty of the press has always been the favorite watchword of those who live by its licentiousness. It has been, from time immemorial, is still, and ever will be, the perpetual *decanatum* on the lips of all libellers. Oswald attempted to screen himself under its ægis, in the case which has been cited from the 1st Dallas. But the attempt was in vain. The

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court taught him the difference between the liberty of the press and the licentiousness of the press: and, in his further attempt to raise an impeachment against the judges for that sentence, the House of Delegates confirmed the wholesome lesson. If, indeed, the liberty of the press was a panoply broad enough to cover every thing done in its name, nothing in the form of a publication could ever have been punished as a contempt of court. In all the reported cases, in which those publishers have been called to answer for a contempt, wherever the defence has appeared in the report, it is the liberty of the press which is the perpetual theme. It is uniformly claimed to be the right of the citizen to question the acts of all public men, and the changes are continually rung on that great palladium of human rights and human happiness—the liberty of the press; as if human rights and human happiness could be promoted by the prostration and destruction of courts of justice, or by poisoning their streams in the fountain head. It is unnecessary to pursue this subject. The judge has never pretended that his opinions are not to be questioned. He insists, however, that they are to be questioned only according to the laws of the land. One mode of questioning them, under these laws, is by appeal to a superior court; and, after the subject-matter shall have been finally decided, another mode of questioning them is, by respectful discussion, either in the public prints or elsewhere. In the present case, the first mode of questioning the opinion, that by appeal, had been resorted to. For the second mode, that of respectful discussion, the case was not ready, because the subject-matter had not been disposed of finally; and even if it had been, it has been shown that there was no semblance of investigation in this article; no pretence of discussion of any kind. It was sheer misrepresentation; and it does not follow, that, because an opinion of a court may be respectfully discussed, it may, therefore, be misrepresented; much less, that it may be so misrepresented as not only to impair the confidence of the public in the dignity, intelligence, and purity of the tribunal, but to render both the judge and the court objects of universal contempt, scorn, and ridicule; and least of all, that, in doing this, a strong prejudice shall also be infused into the public mind with regard to causes still pending in the court." Was this [demanded Mr. WILKINSON] a sneer at the liberty of the press? Was there here any snarl at the liberty of the press? Was the declaration, that it was the greatest of human blessings, confined to the dissemination of truth and intelligence among the people, an attempt to bring the liberty of the press into contempt? Was not the doctrine here laid down by the judge the sound doctrine concerning the liberty of the press? And would it not meet the approbation of all, except the libeller? To be useful, the liberty of the press must be restrained. The principle of restraint was impressed upon every part of creation. By restraint the planets were kept in their orbits. The earth performed its regular evolutions by the restraint of the centrifugal force operating upon it. The vine would shoot into rank luxuriance, if not under the restraint of the laws of nature, by which every thing was preserved within its proper bounds. Was not every thing on earth impressed with this principle? and was not the liberty of the press to be restrained to the performance of its rightful functions of propagating truth for just ends? It was not always those who were loudest in their clamors for the liberty of the press, who were its best friends. There be those who, when they hear those bursts of genius and eloquence upon the liberty of the press, could say, like poor Cordelia—

"Unhappy that I am, I cannot heave  
My heart into my mouth: I love your Majesty  
According to my bond; nor more, nor less."

He thought there had been no occasion for the remarks which had been made on this subject. Judge Peck loved the liberty of the press with as much purity as those who had been so loud in its praises. If he had, in the com-

mencement of this trial, been subjected to a commentary so severe, what might not be expected in its sequel? It had been charged upon the respondent, that he had dared to attempt to buy off this impeachment by an intimation that he was entitled to consideration and exemption, because he had decided the case of Souldard in favor of the United States. It had been alleged that he had tried to buy off the House of Representatives by dirty acres. If he had done so, he was a vile and degraded man, and, he would add, one of the most consummate fools that ever sat upon the bench. But where had he said this? At the close of his defence, he [Judge Peck] observed, "that, in this proceeding, he was actuated by a sense of official duty. He considered it his duty to sustain the dignity and authority of the court over which he had been appointed to preside: he considered it due to the Government which he represented; due to the tribunal, and due to the suitors whose rights were committed to its protection, to punish this contempt as he did punish it. He did consider himself, and does still consider himself, as sustained, at every step, by the highest authority. He believed it, conscientiously, to be his solemn and imperious duty to make the example which he did make, more especially in relation to the country in which he holds his courts, and the nature of the claims which he was called upon to adjudicate, and which had produced this agitation. If, in so doing, he has erred, he has erred in company with judicial characters with whom any judge may be proud to associate; and he has yet to learn that such an error would be a high misdemeanor in the sense of the constitution of the United States. Judge Peck is perfectly aware of the purposes to be answered by his removal, and is, therefore, not at all surprised at the pertinacity with which it has been sought for the last four years. Whether these purposes are such as the interests of the United States call upon them to countenance, by ordering further proceedings in this case, is a question for others, not for Judge Peck. Confident he is, that, if he had been made of more pliant materials, and could have reconciled it to himself to consult his repose, rather than his sense of duty, the House would not have been troubled with this inquiry." Was this, sir, a proposition to buy off impeachment? Was this the language of a man crouching under the charge which had been alleged against him? There was no attempt, here, to screen himself by a bribe; by an appeal to the interest of the honorable House of Representatives. It was the language of a man indignantly asserting his innocence, and turning upon his accuser. It was no attempt to buy off punishment. Let candid and honorable men read and decide for themselves. There was another circumstance which he felt himself called upon to notice with unspeakable regret. He had heard of it with pain, while confined to his bed. The respondent, held up, as he had been, before these crowded galleries, and this assembled multitude, as a judicial monster; a petty provincial tyrant; thus caricatured, empaled and crucified, before this nation, with these lacerated feelings, having occasion to speak to a point of evidence, he had betrayed an emotion with his trembling hand; a tear had started from his eye. Was it wonderful that the respondent, innocent and simple-hearted as a child, with his reputation at hazard; with an aged parent, whose gray hairs he did not wish to send down to the grave with sorrow, should have thus betrayed his feelings on the occasion? Yet, an honorable manager [Mr. WICKLIFFE] had represented him as shedding feigned tears, crocodile tears, before this assembly and this nation. Did the honorable manager recollect the prosecution of Sir Walter Raleigh by Sir Edward Coke? Did he remember the spirit in which that prosecution had been conducted? Did he recollect that Sir Edward Coke had stigmatized that gallant soldier as a spider of hell? Let him ask the honorable manager which character he would rather bear with pos-



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Trial of Judge Peck.

[JAN. 24 to 28, 1861.]

terity—that of Sir Walter Raleigh or Sir Edward Coke? He had the pleasure of a personal acquaintance with the honorable manager; he well knew that unkindness and barbarity were far removed from his heart. What, then, but some unaccountable prejudice could have induced these remarks? They had gone to the world. It would be a long time before this trial would go before the world, to correct the impressions which the representations of honorable managers had made. He had, therefore, been anxious to show that the respondent was not the judicial monster that he was charged with being; that he had not violated the liberty of the press; that he had not attempted to buy off this impeachment; that he was amiable, patient, and forbearing, both as a man and a judge, and that the epithets applied to him had been the effect of prejudice, of heated and perverted imaginations, having no foundation in fact.

Mr. WIRT was proceeding to consider the merits of the case; when, at the suggestion of Mr. WEBSTER, the court adjourned.

## MONDAY, JANUARY 24.

The Senate having again resolved itself into a Court of Impeachment,

Mr. McDUFFIE rose and said, that in consequence of a remark of Mr. WIRT yesterday, he felt himself called upon to say, in substance, that the publication of his remarks, in opening the case against Judge Peck, had been made without his authority; that the report of these remarks must have appeared evidently imperfect, though probably as perfect as, under the circumstances, it could have been; and that, if he had been consulted, he should have advised against the publication.

Mr. WIRT acceded to the correctness of these suggestions, and appeared to do so the more readily from the fact that he had seen his own remarks, made on Saturday, published this morning, without his having been consulted on the subject. He added, that he was sure that nothing had been said by the honorable manager in his opening speech, of the truth of which he had not been entirely satisfied.

## TUESDAY, JANUARY 25.

The Senate again resolved itself into a High Court of Impeachment.

Mr. WIRT occupied four hours in concluding his speech for the respondent. Wit, sarcasm, searching argument, and impressive eloquence, poured forth in streams, riveted the attention and elicited the admiration of a crowded Senate-room and crowded galleries during that long space of time. Whatever might be the fate of the respondent, said the graceful orator, in subdued and almost exhausted tones; whether convicted or acquitted, he should always be proud to take him by the hand as that noblest of God's works, AN HONEST MAN, and to call him HIS FRIEND.

The court and Senate then adjourned.

## WEDNESDAY, JANUARY 26.

After the consideration of a number of private bills, &c. the Senate again resolved itself into a Court of Impeachment.

Mr. STORRS rose and addressed the Court in support of the impeachment, for upwards of three hours. He maintained the position, that no free citizen could be punished by the summary process of attachment for a libel or contempt against any court in a cause not pending in that court; that such a power had never been exercised, even by the courts of England; that the charge against Judge Peck was not so much for suspending Mr. Lawless, as an attorney, from practice in his court, but for imprisoning him, and depriving him of his liberty as a citizen, without indictment and trial by jury; that libels or contempts, for

causes not pending in court, were misdemeanors, which could only be punished by indictment and trial, and that the conduct of Judge Peck tended to break down all the securities and guards which the law had raised for the protection of the liberties of the American people.

Before he concluded, the court adjourned.

## THURSDAY, JANUARY 27.

Mr. CLAYTON, from the Committee appointed to investigate the present condition of the Post Office Department, offered the following resolution, observing that the committee were unanimously of the opinion, that, in order to prosecute that investigation with effect, it was necessary that they should be empowered to send for persons and papers.

*Resolved*, That the Select Committee appointed to examine and report the present condition of the Post Office Department have power to send for persons and papers.

Mr. CLAYTON moved the second reading and adoption of the resolution at this time; but this motion requiring the unanimous assent of the Senate for its passage, and Mr. BENTON objecting to it, the resolution lies on the table one day.

Mr. LIVINGSTON submitted the following resolution:

*Resolved*, That the Committee on Finance be instructed to inquire into the expediency of making further provision for the support of Africans captured by vessels of the United States, and brought into the United States.

## TRIAL OF JUDGE PECK.

The Senate then again resolved itself into a Court of Impeachment.

Mr. STORRS concluded his argument in support of the impeachment. Its sequel was peculiarly impressive and eloquent. One sentiment uttered by the honorable manager is especially worthy of record. He said the best support of the judiciary was to be found in the affections of the people. The people would be true to the judiciary as long as they were true to themselves. The judiciary would find protection with the people, and in their legislative halls, until they should become so debased as to be unworthy of protection. It was not by the usurpation of an unlawful and tyrannical power, nor by the exercise of an unlawful jurisdiction, that they could expect their independence to be respected or preserved; and he seemed to press this point so far as to think that the character, utility, and fate of the judicial branch of the Government depended upon the decision of this case.

The court and Senate adjourned.

## FRIDAY JANUARY 28.

The resolutions submitted yesterday by Mr. CLAYTON, and Mr. LIVINGSTON, were severally taken up and adopted.

## TRIAL OF JUDGE PECK.

The Senate again resolved itself into a High Court of Impeachment.

Mr. WIRT, with permission, explained a remark which he was understood to have made towards the conclusion of his argument in favor of the respondent.

Mr. BUCHANAN then rose, and addressed the court in an able argument in support of the impeachment. He declared, that the usurpation of an authority not legally possessed by a judge, or the manifest abuse of a power really given, was a misbehavior in the sense of the constitution, for which he should be dismissed from office. He contended, that the conduct of Judge Peck, in the case of Mr. Lawless, was in express violation of the constitution and the laws of the land; that the circumstances of that case were amply sufficient to show a criminal intention on his part in the summary punishment of Mr. Lawless; that, in order to prove the criminality of his intention, it was not necessary to demonstrate an actually malicious

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*Duty on Iron.*

[SENATE.]

action, or a lurking revenge; that the infliction upon Mr. Lawless of a summary and cruel punishment, for having written an article decorous in its language, was itself sufficient to prove the badness of the motive; that the consequences of the judge's actions were indicative of his intentions; that our courts had no right to punish, as for contempts, in a summary mode, libels, even in pending causes; and that, if he succeeded, as he believed he should, in establishing these positions, he should consider that he had a right to demand the judgment of the court against the respondent. The honorable manager continued to address the court for three hours and a quarter; and finding that he could not conclude his argument at this sitting, the court adjourned till to-morrow.

SATURDAY, JANUARY 29.

## DUTY ON IRON.

The VICE PRESIDENT communicated a memorial from the mechanics and others, workers in iron, of the city and county of Philadelphia, praying for a reduction of the duties upon imported iron. It was referred to the Select Committee, to whom a former memorial on the same subject was committed.

The VICE PRESIDENT also communicated a memorial from sundry inhabitants of New Jersey, praying a drawback of the duties on iron, and other articles employed in the building of American ships.

Mr. DICKERSON moved the reference of this paper to the Committee on Manufactures.

Mr. HAYNE suggested that it more appropriately belonged to the Committee on Commerce; and he made a motion accordingly.

The question being first taken on the reference to the Committee on Manufactures, there appeared ayes 12, noes 10.

There being no quorum voting,

Mr. WOODBURY called for the reading of the memorial; which being done,

Mr. HAYNE said he still thought the Committee of Commerce to be the proper direction for this memorial. It referred to drawbacks on various articles, and this consideration would induce him to adhere to his motion, to refer it to that committee.

Mr. DICKERSON said the first motion was on referring the memorial to the Committee on Manufactures. It deeply involved the interests of one of the most important manufactures in the country, ship building, which, though ultimately looking to the commercial, yet was as vitally interesting to the manufacturing concerns of the country.

A memorial praying for a drawback on nails, had been referred to the Committee on Commerce, although the subject would more appropriately come under the cognizance of the Committee on Manufactures.

Mr. BENTON said, if he comprehended the views of the gentleman from New Jersey, he was hostile to the objects of the memorial; and, therefore, the committee over which he presided was not a fit tribunal to decide on its merits. Under that belief, he [Mr. B.] would invoke to his aid a rule of the Senate, which he had successfully done on a former occasion, providing that no bill or memorial should be committed to a committee hostile to it. As far back as our legislation had commenced, it had been the wholesome practice, except in a few instances, to refer all subjects to committees deemed favorably disposed to them, on the principle "that a child should not be put out to nurse to those who would strangle or destroy it, by refusing it sufficient nourishment." Under the belief, then, that the Committee on Manufactures, over which the gentleman from New Jersey presided, was hostile to the prayer of the memorial, he hoped it would be referred to the Committee on Commerce, where it would meet with a more favorable consideration.

Mr. WOODBURY admitted the fact, that the subject of the memorial related immediately to manufactures, and to manufactures the most important to the country; but they were directly concerned with commerce, and, in the end, were vitally interesting to it. The memorial should then go to that distinct committee. The gentleman from New Jersey had made an allusion to the memorial, praying for a drawback on nails. He had and still thought that that memorial had been very properly referred to the Committee on Commerce; not that nails were not manufactures, but because the object of the memorial was for the benefit of the commercial interest. Suppose, [said Mr. W.] the memorial related to the manufacture of cannon and gunpowder, would it not be more appropriately referred to the Military Committee than the Committee on Manufactures?

Mr. DICKERSON said he could explain the reasons which induced him to wish this subject referred to the Committee on Manufactures. It was becoming the practice of late, whenever a petition was presented to the Senate praying for the repeal or reduction of duties on iron, on woollens, or almost any other article, it was immediately sent to the Committee on Commerce, thus tending to throw the weight of these interests into the hands of the merchants of the country, to the exclusion of a fair representation of the views of the manufacturers. If we take the view of the gentleman from New Hampshire, [said Mr. D.,] the Committee on Manufactures will soon be a mere nominal committee, shorn of its influence upon the action of Congress.

Mr. KING observed, that he had been under the impression that it was the object of the Congress of the United States to give to every subject presented to them by our fellow-citizens such a consideration as would induce them to believe that the investigation had been conducted with fairness and deliberation. Now, sir, said he, if we refer this memorial to the committee on Manufactures—a committee confessedly hostile to its objects, will it be believed by the memorialists that their views and arguments had met with fair, candid, and deliberate examination? By our sending it to that committee, they cannot think otherwise than that we have prejudged their case, and decided against it without giving it the slightest consideration.

Mr. K. would not enlarge on this view of the subject; he would only leave it to the gentleman from New Jersey, whether he believed that any report of the committee, over which he presided, would be favorable to the memorial, if, indeed, they reported at all. Without at this time entering into any argument, he would merely express the hope that the memorial would be referred to such a committee as would satisfy the memorialists that the Senate was disposed to give to their views a fair and candid examination.

Mr. FOOT said he was somewhat surprised to hear it contended that this subject belonged exclusively to the Committee on Commerce. The memorial prayed for a drawback upon various articles, classed among the manufactures of the country. The practice of both Houses of Congress seemed, in any event, to forbid its being sent to the Committee on Commerce. If it were not referred to the Committee on Manufactures, it surely should rather go to the Committee on Finance.

Mr. WOODBURY said he wished to state, in illustration, one or two facts that had occurred to him, in consequence of the remarks of the gentleman from New Jersey. The memorial on the subject of a drawback on nails manufactured from imported iron, had first been referred to the Committee on Finance, and that committee had been discharged from its further consideration, and it had been sent to the Committee on Commerce; so

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that all the memorials on the subject of drawbacks were now before the last named committee. The first application for a reduction of the duties on salt came from the agricultural interest of the country, and the subject had been referred to the Committee on Agriculture, who, years since, reported the first bill for a reduction of the duties on that article. How was it at this session of Congress? A bill to reduce the duty on a peculiar kind of blankets, manufactured for the use of the Indians, had been referred to the Committee on Indian Affairs; because the measure had been introduced for the purpose of relieving that branch of our trade from the burthens under which it labored, although, from the argument of the gentleman from New Jersey, the Committee on Manufactures would have been the most proper reference. This memorial, then, which looked solely to the relieving of our commerce from its present state of depression, ought, with equal justice, to be sent to that committee which had the subject under its peculiar care.

Mr. SILSBEE said he conceived the Committee on Commerce most competent to decide upon the subject in question, and he hoped it would be submitted to that committee.

Mr. HAYNE observed, that the application of the memorialists was for the purpose of relieving the shipping interest of the United States from embarrassments of such a character as threatened its existence. It was now, he said, proposed to refer the memorial to the Committee on Manufactures, over which the gentleman from New Jersey presided, who was confessedly hostile to all its objects. Now, he would ask, would not such a reference be consigning it to the tomb of all the Capulets? Report after report had been made by that committee, all showing the utmost hostility to the interests whose protection was prayed for by the memorial, and yet the chairman of that committee wished it to be consigned to his care, for the purpose of crushing it at a blow. He would ask if it was right, reasonable, or proper, that this memorial should be consigned to a committee who had already predetermined to destroy it? The views of the gentleman in relation to iron manufactures and iron mines were well known; and, if the commerce of the country depended on him, God save the commerce! Mr. H. concluded by asking for the yeas and nays on the question.

Mr. DICKERSON said he had entertained no idea that this memorial was to be sent to a committee who could make a final decision upon it. It was a new construction to the powers of committees. If the Senate should not concur in the report of a committee, they were not bound to accept it. A committee surely had no power to crush any thing—to conceal any thing—to destroy any thing. Mr. D. said, he deemed it proper that the views of all parties should be fairly developed. He had no doubt the Committee on Commerce was fully competent to pass upon the memorial, but he conceived that there were other interests more directly involved in it. For his own part, he felt no ambition to have charge of this matter. Mr. D. said he thanked the gentleman who last addressed the Senate for the allusion that delicacy should have prevented him from asking that this subject should be referred to the committee of which he had the honor of being chairman. Such a delicacy he might have felt many years ago; but that time had long since gone by. His delicacy must now yield to his duty.

Mr. BENTON read the rule of proceedings on the subject, and argued that no bill or memorial should be referred to a committee hostile to its objects.

Mr. KNIGHT said he would not have addressed the Senate on this subject, had it not been for the remark of an honorable Senator, [Mr. HAYNE,] that the Committee

on Manufactures had pre-judged the question proposed to be referred to it. This, as one of the members of the committee, he felt bound to deny. He contended that all the efforts of that committee had tended to the promotion of commerce as well as other interests. He was in favor of the reference of this memorial to the Committee on Manufactures, whom he believed would make a favorable report upon the prayer of the petitioners.

Mr. WEBSTER said, that, if this was a mere question to consider the expediency of allowing a drawback on imported articles used in ship building, he should incline to the opinion of his colleague, that the most proper reference would be to the Committee on Commerce. He should incline to think, also, that, in judging of the propriety of the reference of a subject to any particular committee, the Senate ought to be influenced more by the purpose for which the committee had been created than by the opinions of its members. This memorial [Mr. W. added] came from a State not much interested in ship building, and treated of matters unconnected with the subject of drawback. It had something to say in relation to internal improvements, and something to say with regard to the constitutional propriety of laying protecting duties on imported articles. Now, as he (Mr. W.) wished to give to these other topics embraced in the memorial some little consideration, and as he had no desire to hear from the Committee on Commerce a report on the subject of internal improvements and the American system, he would move to lay it on the table.

The memorial was then laid on the table: yeas, 19—nays, 17.

#### TRIAL OF JUDGE PECK.

The Senate then again resolved itself into a Court of Impeachment.

Mr. BUCHANAN concluded his argument in support of the impeachment. He took the further position, that the publication of Mr. Lawless, under the signature of "A Citizen," could not, in a trial upon an indictment for libel, be established to be libellous, according to the constitution and laws of the land; that the paper was, on its face, perfectly harmless in itself; and that, so far as it went, it was not an unfair representation of the opinion of Judge Peck. The honorable manager critically and legally analyzed the nine last specifications in the publication, to establish these points. He then proceeded to sum up and descant upon the testimony produced in the case before the Court of Impeachment, in order to show the arbitrary and cruel conduct of Judge Peck; and, in a peroration, marked by its ardent eloquence, he declared, that if this man escaped, the declaration of a distinguished politician of this country, that the power of impeachment was but the scarecrow of the constitution, would be fully verified; that when this trial commenced, he recoiled with horror from the idea of limiting, and rendering precarious and dependent, the tenure of the judicial office, but that the acquittal of the respondent would reconcile him to that evil, as one less than a hopeless and remediless submission to judicial usurpation and tyranny, at least so far as respected the inferior courts. God forbid that the limitation should ever be extended to the Supreme Court! Mercy to the respondent would be cruelty to the American people. In the name, therefore, of the people of the United States, whose liberties he had violated—in the name of the judiciary, whose character he had injured and tarnished—he respectfully asked of this honorable court the conviction of the respondent.

The argument being concluded on both sides, on motion of Mr. WEBSTER, the court then resolved to meet again at 12 o'clock on Monday morning next, in order to proceed further in the consideration of this impeachment.

Adjourned.



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*Trial of Judge Peck.—Bank of the United States.*

[SENATE.]

MONDAY, JAN. 31.

The Senate again resolved itself into a Court of Impeachment; and

The House of Representatives, with their managers, and the counsel for the respondent, having come into court, Mr. TAZEWELL moved the following resolution:

*Resolved*, That this court will now pronounce judgment upon James H. Peck, Judge of the District Court of the United States for the District of Missouri.

Mr. TAZEWELL observed, that if there were one member of the court unprepared for a decision on this impeachment at this time, or preferred any other mode of proceeding to pronounce judgment, he would cheerfully withdraw the resolution.

No objection having been made, the resolution was unanimously adopted.

The names of the Senators were then called over by the Secretary.

The Secretary of the Senate, under the direction of the VICE-PRESIDENT, read the article of impeachment exhibited by the House of Representatives against James H. Peck, Judge of the District Court of the United States for the District of Missouri.

The VICE-PRESIDENT rose and said—

SENATORS: You have heard the article of impeachment read: you have heard the evidence and the arguments for and against the respondent: when your names are called, you will rise from your seats, and distinctly pronounce whether he is guilty or not guilty, as charged by the House of Representatives.

The VICE-PRESIDENT then, in an audible voice, put the following question to each of the Senators in alphabetical order:

Mr. Senator ———: What say you: Is James H. Peck, Judge of the District Court of the United States for the District of Missouri, guilty or not guilty of the high misdemeanor charged in the article of impeachment exhibited against him by the House of Representatives?

Each Senator rose from his seat, as this question was propounded to him, and answered as follows:

GUILTY.—Messrs. Barnard, Brown, Clayton, Dickerson, Dudley, Ellis, Forsyth, Hayne, Iredell, Kane, King, Livingston, McKinley, Poindexter, Robbins, Sanford, Smith, of Maryland, Smith, of South Carolina, Troup, Tyler, Woodbury.—21.

NOT GUILTY.—Messrs. Barton, Bell, Burnet, Chase, Foot, Frelinghuysen, Grundy, Hendricks, Holmes, Johnston, Knight, Marks, Naudain, Noble, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Webster, White, Ruggles.—22.

Mr. BENTON and Mr. ROBINSON were excused from voting. Mr. BIBB, Mr. CHAMBERS, and Mr. ROWAN were absent.

The VICE PRESIDENT again rose, and observed—

SENATORS: Twenty-one Senators having voted that the respondent is guilty, and twenty-two that he is not guilty; and two-thirds of the Senate not having voted for his conviction, it becomes the duty of the Chair to pronounce, that James H. Peck, the Judge of the District Court of the United States for the District of Missouri, stands acquitted of the charge exhibited against him by the House of Representatives.

The VICE PRESIDENT then directed the Marshal to adjourn the Court of Impeachment; and it was accordingly adjourned *sine die*.

TUESDAY, FEB. 1.

The whole of this day's sitting was consumed in the reception of petitions and resolutions, and with closed doors on Executive business.

WEDNESDAY, FEB. 2.

## BANK OF THE UNITED STATES.

Mr. BENTON, in pursuance of notice given yesterday, rose to ask leave to introduce the following resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the charter of the Bank of the United States ought not to be renewed.

Mr. BENTON commenced his speech in support of the application for the leave he was about to ask, with a justification of himself for bringing forward the question of renewal at this time, when the charter had still five years to run; and bottomed his vindication chiefly on the right he possessed, and the necessity he was under to answer certain reports of one of the committees of the Senate, made in opposition to certain resolutions relative to the bank, which he had submitted to the Senate at former sessions, and which reports he had not had an opportunity of answering. He said it had been his fortune, or chance, some three years ago, to submit a resolution in relation to the undrawn balances of public money in the hands of the bank, and to accompany it with some poor remarks of unfavorable implication to the future existence of that institution. My resolution [said Mr. B.] was referred to the Committee on Finance, who made a report decidedly adverse to all my views, and eminently favorable to the bank, both as a present and future institution. This report came in on the 13th of May, just fourteen days before the conclusion of a six months' session, when all was hurry and precipitation to terminate the business on hand, and when there was not the least chance to engage the attention of the Senate in the consideration of any new subject. The report was, therefore, laid upon the table unanswered, but was printed by order of the Senate, and that in extra numbers, and widely diffused over the country by means of the newspaper press. At the commencement of the next session, it being irregular to call for the consideration of the past report, I was under the necessity to begin anew, and accordingly submitted my resolution a second time, and that quite early in the session; say on the first day of January. It was my wish and request that this resolution might be discussed in the Senate, but the sentiment of the majority was different, and a second reference of it was made to the Finance Committee. A second report of the same purport with the first was a matter of course; but what did not seem to me to be a matter of course was this; that this second report should not come in until the 20th day of February, just fourteen days again before the end of the session, for it was then the short session, and the Senate as much pinched as before for time to finish the business on hand. No answer could be made to it, but the report was printed, with the former report appended to it; and thus, united like the Siamese twins, and with the apparent, but not real sanction of the Senate, they went forth together to make the tour of the Union in the columns of the newspaper press. Thus, I was a second time out of court; a second time non-suited for want of a replication, when there was no time to file one. I had intended to begin *de novo*, and for the third time, at the opening of the ensuing session; but, happily, was anticipated and prevented by the annual message of the new President, [General Jackson,] which brought this question of renewing the bank charter directly before Congress. A reference of this part of the message was made, of course, to the Finance Committee: the committee, of course, again reported, and with increased ardor, in favor of the bank. Unhappily this third report, which was an amplification and reiteration of the two former, did not come in until the session was four months advanced, and when the time of the Senate had become engrossed, and its attention absorbed, by the numerous and important subjects which had accumulated

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upon the calendar. Printing in extra numbers, general circulation through the newspaper press, and no answer, was the catastrophe of this third reference to the Finance Committee. Thus was I non-suited for the third time. The fourth session has now come round; the same subject is again before the same committee on the reference of the part of the President's second annual message which relates to the bank; and, doubtless, a fourth report of the same import with the three preceding ones, may be expected. But when? is the question. And, as I cannot answer that question, and the session is now two-thirds advanced, and as I have no disposition to be cut off for the fourth time, I have thought proper to create an occasion to deliver my own sentiments, by asking leave to introduce a joint resolution, adverse to the tenor of all the reports, and to give my reasons against them, while supporting my application for the leave demanded; a course of proceeding which is just to myself, and unjust to no one, since all are at liberty to answer me. These are my personal reasons for this step, and a part of my answer to the objection that I have begun too soon. The conduct of the bank, and its friends, constitutes the second branch of my justification. It is certainly not "too soon" for them, judging by their conduct, to engage in the question of renewing the bank charter. In and out of Congress, they all seem to be of one accord on this point. Three reports of committees in the Senate, and one from a committee of the House of Representatives, have been made in favor of the renewal; and all these reports, instead of being laid away for future use—instead of being stuck in pigeon holes, and labeled for future attention, as things coming forth prematurely, and not wanted for present service—have, on the contrary, been universally received by the bank and its friends, in one great tempest of applause; greeted with every species of acclamation; reprinted in most of the papers, and every effort made to give the widest diffusion, and the highest effect, to the arguments they contain. In addition to this, and at the present session, within a few days past, three thousand copies of the exposition of the affairs of the Bank have been printed by order of the two Houses, a thing never before done, and now intended to blazon the merits of the bank. [Mr. SMITH, of Maryland, here expressed some dissent to this statement; but Mr. B. affirmed its correctness in substance if not to the letter, and continued.] This does not look as if the bank advocates thought it was *too soon* to discuss the question of renewing the charter; and, upon this exhibition of their sentiments, I shall rest the assertion and the proof, that they do not think so. The third branch of my justification rests upon a sense of public duty; upon a sense of what is just and advantageous to the people in general, and to the debtors and stockholders of the bank in particular. The renewal of the charter is a question which concerns the people at large; and if they are to have any hand in the decision of this question—if they are even to know what is done before it is done, it is high time that they and their Representatives in Congress should understand each other's mind upon it. The charter has but five years to run; and if renewed at all, will probably be at some short period, say two or three years, before the time is out, and at any time sooner that a chance can be seen to gallop the renewal through Congress. The people, therefore, have no time to lose, if they mean to have any hand in the decision of this great question. To the bank itself, it must be advantageous, at least, if not desirable, to know its fate at once, that it may avoid, (if there is to be no renewal,) the trouble and expense of multiplying branches upon the eve of dissolution, and the risk and inconvenience of extending loans beyond the term of its existence. To the debtors upon mortgages, and indefinite accommodations, it must be also advantageous, if not desirable, to be notified in advance of the end of their indulgences: so that, to every interest, public and

private, political and pecuniary, general and particular, full discussion, and seasonable decision, is just and proper.

I hold myself justified, Mr. President, upon the reasons given, for proceeding in my present application; but, as example is sometimes more authoritative than reason, I will take the liberty to produce one, which is as high in point of authority as it is appropriate in point of application, and which happens to fit the case before the Senate as completely as if it had been made for it. I speak of what has lately been done in the Parliament of Great Britain. It so happens, that the charter of the Bank of England is to expire, upon its own limitation, nearly about the same time with the charter of the Bank of the United States, namely, in the year 1833; and as far back as 1824, no less than nine years before its expiration, the question of its renewal was debated, and that with great freedom, in the British House of Commons. I will read some extracts from that debate, as the fairest way of presenting the example to the Senate, and the most effectual mode of securing to myself the advantage of the sentiments expressed by British statesmen.

## [THE EXTRACTS.]

Sir Henry Parnell.—“The House should no longer delay to turn its attention to the expediency of renewing the charter of the Bank of England. Heretofore, it had been the regular custom to renew the charter several years before the existing charter had expired. The last renewal was made when the existing charter had eleven years to run: the present charter had nine years only to continue, and he felt very anxious to prevent the making of any agreement between the Government and the bank for a renewal, without a full examination of the policy of again conferring upon the bank of England any exclusive privilege. The practice had been for Government to make a secret arrangement with the Bank; to submit it immediately to the proprietors of the bank for their approbation, and to call upon the House the next day to confirm it, without affording any opportunity of fair deliberation. So much information had been obtained upon the banking trade, and upon the nature of currency in the last fifteen years, that it was particularly necessary to enter upon a full investigation of the policy of renewing the bank charter before any negotiation should be entered upon between the Government and the bank; and he trusted the Government would not commence any such negotiation until the sense of Parliament had been taken on this important subject.”

“Mr. Hume said it was of very great importance that his majesty's ministers should take immediate steps to free themselves from the trammels in which they had long been held by the bank. As the interest of money was now nearly on a level with what it was when the bank lent a large sum to Government, he hoped the Chancellor of the Exchequer would not listen to any application for a renewal of the bank charter, but would pay off every shilling that had been borrowed from the bank.”

Let the country gentlemen recollect that the bank was now acting as pawn-broker on a large scale, and lending money on estates, a system entirely contrary to the original intention of that institution. He hoped, before the expiration of the charter, that a regular inquiry would be made into the whole subject.”

Mr. Edward Ellice. “It (the Bank of England) is a great monopolizing body, enjoying privileges which belonged to no other corporation, and no other class of his majesty's subjects. He hoped that the exclusive charter would never again be granted; and that the conduct of the bank during the last ten or twelve years would make Government very cautious how they entertained any such propositions. The right honorable Chancellor of the Exchequer [Mr. Rob-

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inson] had protested against the idea of straining any point to the prejudice of the bank; he thought, however, that the bank had very little to complain of, when their stock, after all their past profits, was at 238."

The Chancellor of the Exchequer "depreciated the discussion, as leading to no practical result."

Mr. Alexander Baring "objected to it as premature and unnecessary."

Sir William Pulteney (in another debate.) "The prejudices in favor of the present bank have proceeded from the long habit of considering it as a sort of pillar which nothing can shake. \* \* \* \* \* The bank has been supported, and is still supported, by the fear and terror of which, by means of its monopoly, it has had the power to inspire. It is well known, that there is hardly an extensive trader, a manufacturer, or a banker, either in London, or at a distance from it, to whom the bank could not do a serious injury, and could often bring on even insolvency. \* \* \* \* \* I consider the power given by the monopoly to be of the nature of all other despotic power, which corrupts the despot as much as it corrupts the slave. \* \* \* \* \*

It is in the nature of man, that a monopoly must necessarily be ill-conducted. \* \* \* \* \* Whatever language the [private] bankers may feel themselves obliged to hold, yet no one can believe that they have any satisfaction in being, and continuing, under a dominion which has proved so grievous and so disastrous. \* \*

\* \* \* \* \* I can never believe that the merchants and bankers of this country will prove unwilling to emancipate themselves, if they can do it without risking the resentment of the bank. No man in France was heard to complain, openly, of the Bastille while it existed. The merchants and bankers of this country have the blood of Englishmen, and will be happy to relieve themselves from a situation of perpetual terror, if they could do it consistently with a due regard to their own interest."

Here is authority added to reason—the force of a great example added to the weight of unanswerable reasons, in favor of early discussion; so that, I trust, I have effectually put aside that old and convenient objection to the "time," that most flexible and accommodating objection, which applies to all seasons, and all subjects, and is just as available for cutting off a late debate, because it is too late, as it is for stifling an early one, because it is too early.

But, it is said that the debate will injure the stockholders; that it depreciates the value of their property, and that it is wrong to sport with the vested rights of individuals. This complaint, supposing it to come from the stockholders themselves, is both absurd and ungrateful. It is absurd, because the stockholders, at least so many of them as are not foreigners, must have known when they accepted a charter of limited duration, that the approach of its expiration would renew the debate upon the propriety of its existence; that every citizen had a right, and every public man was under an obligation, to declare his sentiments freely; that there was nothing in the charter, numerous as its peculiar privileges were, to exempt the bank from that freedom of speech and writing, which extends to all our public affairs; and that the charter was not to be renewed here, as the Bank of England charter had formerly been renewed, by a private arrangement among its friends, suddenly produced in Congress, and galloped through without the knowledge of the country. The American part of the stockholders (for I would not reply to the complaints of the foreigners) must have known all this; and known it when they accepted the charter. They accepted it, subject to this known consequence; and, therefore, the complaint about injuring their property is absurd. That it is ungrateful, must

be apparent to all who will reflect upon the great privileges which these stockholders will have enjoyed for twenty years, and the large profits they have already derived from their charter. They have been dividing seven per cent. per annum, unless when prevented by their own mismanagement; and have laid up a real estate of three millions of dollars for future division; and the money which has done these handsome things, instead of being diminished or impaired in the process, is still worth largely upwards of one hundred cents to the dollar: say, one hundred and twenty-five cents. For the peculiar privileges which enabled them to make these profits, the stockholders ought to be grateful; but, like all persons who have been highly favored with undue benefits, they mistake a privilege for a right—a favor for a duty—and resent, as an attack upon their property, a refusal to prolong their undue advantages. There is no ground for these complaints, but for thanks and benedictions rather, for permitting the bank to live out its numbered days! That institution has forfeited its charter. It may be shut up at any hour. It lives from day to day by the indulgence of those whom it daily attacks; and, if any one is ignorant of this fact, let him look at the case of the Bank of the United States against Owens and others, decided in the Supreme Court, and reported in the 2d Peters.

[Here Mr. B. read a part of this case, showing that it was a case of usury at the rate of forty-six per cent. and that Mr. Sergeant, counsel for the bank, resisted the decision of the Supreme Court, upon the ground that it would expose the charter of the bank to forfeiture; and that the decision was, nevertheless, given upon that ground; so that the bank, being convicted of taking usury, in violation of its charter, was liable to be deprived of its charter, at any time that a *scire facias* should issue against it.]

Mr. B. resumed. Before I proceed to the consideration of the resolution, I wish to be indulged in adverting to a rule or principle of parliamentary practice, which it is only necessary to read now in order to avoid the possibility of any necessity for recurring to it hereafter. It is the rule which forbids any member to be present—which, in fact, requires him to withdraw—during the discussion of any question in which his private interest may be concerned; and authorizes the expurgation from the Journal of any vote which may have been given under the predicament of an interested motive. I demand that the Secretary of the Senate may read the rule to which I allude.

[The Secretary read the following rule:]

"Where the private interests of a member are concerned in a bill or question, he is to withdraw. And where such an interest has appeared, his voice has been disallowed, even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principles of the social compact, which denies to any man to be a judge in his own cause, it is for the honor of the House that this rule, of immemorial observance, should be strictly adhered to."

First: Mr. President, I object to the renewal of the charter of the Bank of the United States, because I look upon the bank as an institution too great and powerful to be tolerated in a Government of free and equal laws. Its power is that of a purse; a power more potent than that of the sword; and this power it possesses to a degree and extent that will enable this bank to draw to itself too much of the political power of this Union; and too much of the individual property of the citizens of these States. The money power of the bank is both direct and indirect.

[The VICE PRESIDENT here intimated to Mr. B. that he was out of order, and had not a right to go into the

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merits of the bank upon the motion upon which he had made. Mr. B. begged pardon of the Vice President, and respectfully insisted that he was in order, and had a right to proceed. He said he was proceeding upon the parliamentary rule of asking leave to bring in a joint resolution, and, in doing which, he had a right to state his reasons, which reasons constituted his speech; that the motion was debateable, and the whole Senate might answer him. The VICE PRESIDENT then directed Mr. B. to proceed.]

Mr. B. resumed. The direct power of the bank is now prodigious, and, in the event of the renewal of the charter, must speedily become boundless and uncontrollable. The bank is now authorized to own effects, lands inclusive, to the amount of fifty-five millions of dollars, and to issue notes to the amount of thirty-five millions more. This makes ninety millions; and, in addition to this vast sum, there is an opening for an unlimited increase: for, there is a dispensation in the charter to issue as many more notes as Congress, by law, may permit. This opens the door to boundless emissions; for what can be more unbounded than the will and pleasure of successive Congresses? The indirect power of the bank cannot be stated in figures; but it can be shown to be immense. In the first place, it has the keeping of the public moneys, now amounting to twenty-six millions per annum, (the Post Office Department included,) and the gratuitous use of the undrawn balances, large enough to constitute, in themselves, the capital of a great State bank. In the next place, its promissory notes are receivable, by law, in purchase of all property owned by the United States, and in payment of all debts due them; and this may increase its power to the amount of the annual revenue, by creating a demand for its notes to that amount. In the third place, it wears the name of the United States, and has the Federal Government for a partner; and this name, and this partnership, identifies the credit of the bank with the credit of the Union. In the fourth place, it is armed with authority to disparage and discredit the notes of other banks, by excluding them from all payments to the United States; and this, added to all its other powers, direct and indirect, makes this institution the uncontrollable monarch of the moneyed system of the Union. To whom is all this power granted? To a company of private individuals, many of them foreigners, and the mass of them residing in a remote and narrow corner of the Union, unconnected by any sympathy with the fertile regions of the Great Valley, in which the natural power of this Union—the power of numbers—will be found to reside long before the renewed term of a second charter would expire. By whom is all this power to be exercised? By a directory of seven, (it may be,) governed by a majority, of four, (it may be;) and none of these elected by the people, or responsible to them. Where is it to be exercised? At a single city, distant a thousand miles from some of the States, receiving the produce of none of them (except one;) no interest in the welfare of any of them (except one;) no commerce with the people; with branches in every State; and every branch subject to the secret and absolute orders of the supreme central head: thus constituting a system of centralism, hostile to the federative principle of our Union, encroaching upon the wealth and power of the States, and organized upon a principle to give the highest effect to the greatest power. This mass of power, thus concentrated, thus ramified, and thus directed, must necessarily become, under a prolonged existence, the absolute monopolist of American money, the sole manufacturer of paper currency, and the sole authority (for authority it will be) to which the Federal Government, the State Governments,

the great cities, corporate bodies, merchants, traders, and every private citizen, must, of necessity apply, for every loan which their exigencies may demand. "The rich ruleth the poor, and the borrower is the servant of the lender." Such are the words of holy writ; and if the authority of the Bible admitted of corroboration, the history of the world is at hand to give it. But I will not cite the history of the world, but one eminent example only, and that of a nature so high and commanding, as to include all others; and so near and recent, as to be directly applicable to our own situation. I speak of what happened in Great Britain, in the year 1795, when the Bank of England, by a brief and unceremonious letter to Mr. Pitt, such as a miser would write to a prodigal in a pinch, gave the proof of what a great moneyed power could do, and would do, to promote its own interest, in a crisis of national alarm and difficulty. I will read the letter. It is exceedingly short; for after the compliments are omitted, there are but three lines of it. It is, in fact, about as long as a sentence of execution, leaving out the prayer of the judge. It runs thus:

"It is the wish of the Court of Directors that the Chancellor of the Exchequer would settle his arrangements of finances for the present year, in such manner as not to depend upon any further assistance from them, beyond what is already agreed for."

Such were the words of this memorable note, sufficiently explicit and intelligible; but to appreciate it fully, we must know what was the condition of Great Britain at that time? Remember it was the year 1795, and the beginning of that year, than which a more portentous one never opened upon the British empire. The war with the French republic had been raging for two years; Spain had just declared war against Great Britain; Ireland was bursting into rebellion; the fleet in the North was in open mutiny; and a cry for the reform of abuses, and the reduction of taxes, resounded through the land. It was a season of alarm and consternation, and of imminent actual danger to Great Britain; and this was the moment which the Bank selected to notify the minister that no more loans were to be expected! What was the effect of this notification? It was to paralyze the Government, and to subdue the minister to the purposes of the bank. From that day forth Mr. Pitt became the minister of the bank; and, before two years were out, he had succeeded in bringing all the departments of Government, King, Lords, and Commons, and the Privy Council, to his own slavish condition. He stopped the specie payments of the bank, and made its notes the lawful currency of the land. In 1797 he obtained an order in council for this purpose; in the same year an act of Parliament to confirm the order for a month, and afterwards a series of acts to continue it for twenty years. This was the reign of the bank. For twenty years it was a dominant power in England, and, during that disastrous period, the public debt was increased about £400,000,000 sterling, equal nearly to two thousand millions of dollars, and that by paper loans from a bank which, according to its own declarations, had not a shilling to lend at the commencement of the period! I omit the rest. I say nothing of the general subjugation of the country banks, the rise in the price of food, the decline in wages, the increase of crimes and taxes, the multiplication of lords and beggars, and the frightful demoralization of society. I omit all this. I only seize the prominent figure in the picture, that of a Government arrested in the midst of war and danger by the veto of a moneyed corporation; and only permitted to go on upon condition of assuming the odium of stopping specie payments, and sustaining the promissory notes of an insolvent bank, as the lawful currency of the land. This single figure suffices to fix the character of the times; for when the Government becomes the "servant of the lender," the people themselves become its slaves. Cannot

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the Bank of the United States, if re-chartered, act in the same way? It certainly can, and just as certainly will, when time and opportunity shall serve, and interest may prompt. It is to no purpose that gentlemen may come forward, and vaunt the character of the United States' Bank, and proclaim it too just and merciful to oppress the State. I must be permitted to repudiate both the pledge and the praise. The security is insufficient, and the encomium belongs to Constantinople. There were enough such in the British Parliament the year before, nay, the day before the bank stopped; yet their pledges and praises neither prevented the stoppage, nor made good the damage that ensued. There were gentlemen in our Congress to pledge themselves in 1810 for the then expiring bank, of which the one now existing is a second and deteriorated edition; and if their securityship had been accepted, and the old bank re-chartered, we should have seen this Government greeted with a note, about August, 1814—about the time the British were burning this capitol—of the same tenor with the one received by the younger Pitt in the year 1795; for, it is incontestable, that that bank was owned by men who would have gloried in arresting the Government, and the war itself, for want of money. Happily, the wisdom and patriotism of Jefferson, under the providence of God, prevented that infamy and ruin, by preventing the renewal of the old bank charter.

Secondly. I object to the continuance of this bank, because its tendencies are dangerous and pernicious to the Government and the people.

What are the tendencies of a great moneyed power, connected with the Government, and controlling its fiscal operations? Are they not dangerous to every interest, public and private—political as well as pecuniary? I say they are; and briefly enumerate the heads of each mischief.

1. Such a bank tends to subjugate the Government, as I have already shown in the history of what happened to the British minister in the year 1795.

2. It tends to collusions between the Government and the bank in the terms of the loans, as has been fully experienced in England in those frauds upon the people, and insults upon the understanding, called three per cent. loans, in which the Government, for about £50 borrowed, became liable to pay £100.

3. It tends to create public debt, by facilitating public loans, and substituting unlimited supplies of paper, for limited supplies of coin. The British debt is born of the Bank of England. That bank was chartered in 1694, and was nothing more nor less in the beginning than an act of Parliament for the incorporation of a company of subscribers to a Government loan. The loan was £1,200,000; the interest £80,000; and the expenses of management £4,000. And this is the birth and origin, the germ and nucleus of that debt, which is now £900,000,000, (the unfunded items included) which bears an interest of £30,000,000, and costs £260,000 for annual management.

4. It tends to beget and prolong unnecessary wars, by furnishing the means of carrying them on without recurrence to the people. England is the ready example for this calamity. Her wars for the restoration of the Capet Bourbons were kept up by loans and subsidies created out of bank paper. The people of England had no interest in these wars, which cost them about £600,000,000 of debt in twenty-five years, in addition to the supplies raised within the year. The Kings she put back upon the French throne were not able to sit on it. Twice she put them on; twice they tumbled off in the mud; and all that now remains of so much sacrifice of life and money is, the debt, which is eternal, the taxes, which are intolerable, the pensions and titles of some warriors, and the keeping of the Capet Bourbons, who are returned upon their hands.

5. It tends to aggravate the inequality of fortunes; to make the rich richer, and the poor poorer; to multiply nabobs and paupers; and to deepen and widen the gulf which separates Dives from Lazarus. A great moneyed power is favorable to great capitalists; for it is the principle of money to favor money. It is unfavorable to small capitalists; for it is the principle of money to eschew the needy and unfortunate. It is injurious to the laboring classes; because they receive no favors, and have the price of the property they wish to acquire raised to the paper maximum, while wages remain at the silver minimum.

6. It tends to make and to break fortunes, by the flux and reflux of paper. Profuse issues, and sudden contractions, perform this operation, which can be repeated, like planetary and pestilential visitations, in every cycle of so many years; at every periodical return, transferring millions from the actual possessors of property to the Neptunes who preside over the flux and reflux of paper. The last operation of this kind performed by the Bank of England, about five years ago, was described by Mr. Alexander Baring, in the House of Commons, in terms which are entitled to the knowledge and remembrance of American citizens. I will read his description, which is brief but impressive. After describing the profuse issues of 1823-24, he painted the re-action in the following terms:

"They, therefore, all at once, gave a sudden jerk to the horse on whose neck they had before suffered the reins to hang loose. They contracted their issues to a considerable extent. The change was at once felt throughout the country. A few days before that, no one knew what to do with his money: now, no one knew where to get it. \* \*

\* \* \* \* The London bankers found it necessary to follow the same course towards their country correspondents, and these again towards their customers, and each individual towards his debtor. The consequence was obvious, in the late panic. Every one, desirous to obtain what was due to him, ran to his banker, or to any other on whom he had a claim; and even those who had no immediate use for their money, took it back, and let it lie unemployed in their pockets, thinking it unsafe in others' hands. The effect of this alarm was, that houses which were weak went immediately. Then went second rate houses; and, lastly, houses which were solvent went, because their securities were unavailable. The daily calls to which each individual was subject put it out of his power to assist his neighbor. Men were known to seek for assistance, and, that, too, without finding it, who, on examination of their affairs, were proved to be worth 200,000 pounds,—men, too, who held themselves so secure, that, if asked six months before whether they could contemplate such an event, they would have said it would be impossible; unless the sky should fall, or some other event equally improbable should occur."

This is what was done in England five years ago; it is what may be done here in every five years to come, if the bank charter is renewed. Sole dispenser of money, it cannot omit the oldest and most obvious means of amassing wealth by the flux and reflux of paper. The game will be in its own hands, and the only answer to be given is that to which I have alluded: "The Sultan is too just and merciful to abuse his power."

Thirdly. I object to the renewal of the charter, on account of the exclusive privileges, and anti-republican monopoly, which it gives to the stockholders. It gives, and that by an act of Congress, to a company of individuals, the exclusive legal privileges:

1. To carry on the trade of banking upon the revenue and credit, and in the name, of the United States of America.

2. To pay the revenues of the Union in their own promissory notes.

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3. To hold the moneys of the United States in deposit, without making compensation for the undrawn balances.

4. To discredit and disparage the notes of other banks, by excluding them from the collection of the federal revenue.

5. To hold real estate, receive rents, and retain a body of tenantry.

6. To deal in pawns, merchandise, and bills of exchange.

7. To establish branches in the States without their consent.

8. To be exempt from liability on the failure of the bank.

9. To have the United States for a partner.

10. To have foreigners for partners.

11. To be exempt from the regular administration of justice for the violations of their charter.

12. To have all these exclusive privileges secured to them as a monopoly, in a pledge of the public faith not to grant the like privileges to any other company.

These are the privileges, and this the monopoly, of the bank. Now, let us examine them, and ascertain their effect and bearing. Let us contemplate the magnitude of the power which they create; and ascertain the compatibility of this power with the safety of this republican Government, and the rights and interests of its free and equal constituents.

1. The name, the credit, and the revenues of the United States, are given up to the use of this company, and constitute in themselves an immense capital to bank upon.—The name of the United States, like that of the King, is a tower of strength; and this strong tower is now an outwork to defend the citadel of a moneyed corporation. The credit of the Union is incalculable; and, of this credit, as going with the name, and being in partnership with the United States, the same corporation now has possession. The revenues of the Union are twenty-six millions of dollars, including the Post Office; and all this is so much capital in the hands of the bank, because the revenue is received by it, and is payable in its promissory notes.

2. To pay the revenues of the United States in their own notes, until Congress, by law, shall otherwise direct.—This is a part of the charter, incredible and extraordinary as it may appear. The promissory notes of the bank are to be received in payment of every thing the United States may have to sell—in discharge of every debt due to her, until Congress, by law, shall otherwise direct; so that, if this bank, like its prototype in England, should stop payment, its promissory notes would still be receivable at every custom house, land office, post office, and by every collector of public moneys, throughout the Union, until Congress shall meet, pass a repealing law, and pronounce the repeal. Other banks depend upon their credit for the receivability of their notes; but this favored institution has law on its side, and a chartered right to compel the reception of its paper by the Federal Government. The immediate consequence of this extraordinary privilege is, that the United States becomes virtually bound to stand security for the bank, as much so as if she had signed a bond to that effect; and must stand forward to sustain the institution in all emergencies, in order to save her own revenue. This is what has already happened, some ten years ago, in the early progress of the bank, and when the immense aid given it by the Federal Government enabled it to survive the crisis of its own overwhelming mismanagement.

3. To hold the moneys of the United States in deposit, without making compensation for the use of the undrawn balances.—This is a right which I deny; but, as the bank claims it, and, what is more material, enjoys it; and as the people of the United States have suffered to a vast extent in consequence of this claim and enjoyment, I shall not hesitate to set it down to the account of the bank. Let us then examine the value of this privilege, and its effect

upon the interest of the community: and, in the first place, let us have a full and accurate view of the amount of these undrawn balances, from the establishment of the bank to the present day. Here it is! Look! Read!

Years.	First Quarter.	Second Quarter.	Third Quarter.	Fourth Quarter.	Average.
1817,	11,483,520 76	15,933,050 36	5,635,568 68	7,404,336 07	10,115,118 97
1818,	6,686,387 71	6,893,210 05	6,910,836 83	543,468 70	5,246,475 82
1819,	487,537 70	1,500,035 82	310,942 75	908,566 55	801,770 70
1820,	1,781,976 08	946,115 17	1,390,349 61	388,210 94	1,126,665 45
1821,	*Overdrawn.	754,962 41	1,390,349 61	256,953 41	1,82,211 11
1822,	1,021,523 74	1,406,112 48	1,326,605 42	1,832,535 82	1,551,694 36
1823,	2,759,000 70	5,630,572 84	6,409,577 80	6,882,058 14	5,415,252 37
1824,	3,429,432 88	5,253,004 44	4,906,814 02	*Overdrawn.	5,767,335 31
1825,	3,994,757 66	6,116,027 30	1,122,118 97	3,101,776 20	3,583,670 03
1826,	4,682,578 25	1,583,604 23	3,836,165 86	4,042,958 00	3,557,026 58
1827,	4,844,575 84	2,352,943 90	3,747,731 71	4,400,738 84	3,836,422 57
1828,	6,464,089 79	3,775,094 46	5,234,564 42	4,107,429 89	4,895,244 64
1829,	6,401,103 07	2,721,968 47	4,413,574 95	3,765,102 96	4,825,437 36
1830,	5,721,526 71	2,250,664 92	-	-	5,986,095 82
To 30th June, 1830,	*1,044,539 91	-	-	*518,910 09	-

*A statement of public money in the Bank of the United States and its branches at the end of each quarter, from the year 1817, to 30th June, 1830.*

See, Mr. President, what masses of money, and always on hand. The paper is covered all over with millions: and yet, for all these vast sums, no interest is allowed; no compensation is made to the United States. The Bank of England, for the undrawn balances of the public money, has made an equitable compensation to the British Government; namely, a permanent loan of half a million sterling, and a temporary loan of three millions for twenty years, without interest. Yet, when I moved for a like compensation to the United States, the proposition was utterly rejected by the Finance Committee, and treated as an attempt to violate the charter of the bank. At the same time it is incontestable, that the United States have been borrowing these undrawn balances from the bank, and paying an interest upon their own money. I think we can identify one of these loans. Let us try. In May, 1824, Congress authorized a loan of five millions of dollars



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to pay the awards under the treaty with Spain, commonly called the Florida treaty. The Bank of the United States took that loan, and paid the money for the United States in January and March, 1825. In looking over the statement of undrawn balances, it will be seen that they amounted to near four millions at the end of the first, and six millions at the end of the second quarter of that year. The inference is irresistible, and I leave every Senator to make it; only adding, that we have paid \$1,469,375 in interest upon that loan, either to the bank or its transferees. This is a strong case, but I have a stronger one. It is known to every body that the United States subscribed seven millions to the capital stock of the bank, for which she gave her stock note, bearing an interest of five per cent. per annum. I have a statement from the Register of the Treasury, from which it appears that, up to the 30th day of June last, the United States had paid four millions seven hundred and twenty-five thousand dollars in interest upon that note; when it is proved by the statement of balances exhibited, that the United States, for the whole period in which that interest was accruing, had the half, or the whole, and once the double, of these seven millions in the hands of the bank. This is a stronger case than that of the five million loan, but it is not the strongest. The strongest case is this: In the year 1817, when the bank went into operation, the United States owed, among other debts, a sum of about fourteen millions and three-quarters, bearing an interest of three per cent. In the same year, the Commissioners of the Sinking Fund were authorized by an act of Congress to purchase that stock at sixty-five per cent., which was then its market price. Under this authority, the amount of about one million and a half was purchased; the remainder, amounting to about thirteen millions and a quarter, has continued unpurchased to this day; and, after costing the United States about six millions in interest since 1817, the stock has risen about four millions in value; that is to say, from sixty-five to nearly ninety-five. Now, here is a clear loss of ten millions of dollars to the United States. In 1817 she could have paid off thirteen millions and a quarter of debt, with eight millions and a half of dollars; now, after paying six millions of interest, it would require twelve millions and a half to pay off the same debt. By referring to the statement of undrawn balances, it will be seen that the United States had, during the whole year 1817, an average sum of above ten millions of dollars in the hands of the bank, being a million and a half more than enough to have bought in the whole of the three per cent. stock. The question, therefore, naturally comes up, why was it not applied to the redemption of these thirteen millions and a quarter, according to the authority contained in the act of Congress of that year? Certainly the bank needed the money; for it was just getting into operation, and was as hard run to escape bankruptcy about that time, as any bank that ever was saved from the brink of destruction. This is the largest injury which we have sustained, on account of accommodating the bank with the gratuitous use of these vast deposits. But, to show myself impartial, I will now state the smallest case of injury that has come within my knowledge: It is the case of the *bonus* of fifteen hundred thousand dollars which the bank was to pay to the United States, in three equal instalments, for the purchase of its charter. Nominally, this *bonus* has been paid, but out of what moneys? Certainly out of our own; for the statement shows our money was there, and further, shows that it is still there; for, on the 30th day of June last, which is the latest return, there was still \$2,550,664 in the hands of the bank, which is above \$750,000 more than the amount of the *bonus*.

One word more upon the subject of these balances. It is now two years since I made an effort to repeal the 4th section of the Sinking Fund act of 1817; a section which was intended to limit the amount of surplus money which

might be kept in the treasury, to two millions of dollars; but, by the power of construction, was made to authorize the keeping of two millions in addition to the surplus. I wished to repeal this section, which had thus been construed into the reverse of its intention, and to revive the first section of the Sinking Fund act of 1790, which directed the whole of the surplus on hand to be applied, at the end of each year, to the payment of the public debt. My argument was this: that there was no necessity to keep any surplus; that the revenue, coming in as fast as it went out, was like a perennial fountain, which you might drain to the last drop, and not exhaust; for the place of the last drop would be supplied the instant it was out. And I supported this reasoning by a reference to the annual treasury reports, which always exhibit a surplus of four or five millions; and which were equally in the treasury the whole year round, as on the last day of every year. This was the argument, which, in fact, availed nothing; but now I have mathematical proof of the truth of my position. Look at this statement of balances; look for the year 1819, and you will find but three hundred thousand dollars on hand for that year; look still lower for 1821, and you will find this balance but one hundred and eighty-two thousand dollars. And what was the consequence? Did the Government stop? Did the wheels of the state chariot cease to turn round in those years for want of treasury oil? Not at all. Every thing went on as well as before; the operations of the treasury were as perfect and regular in those two years of insignificant balances, as in 1817 and 1818, when five and ten millions were on hand. This is proof; this is demonstration: it is the indubitable evidence of the senses which concludes argument, and dispels uncertainty; and, as my proposal for the repeal of the 4th section of the Sinking Fund act of 1817 was enacted into a law at the last session of Congress, upon the recommendation of the Secretary of the Treasury, a vigilant and exemplary officer, I trust that the repeal will be acted upon, and that the bank platter will be wiped as clean of federal money in 1831, as it was in 1821. Such clean-taking from that dish, will allow two or three millions more to go to the reduction of the public debt; and there can be no danger in taking the last dollar, as reason and experience both prove. But, to quiet every apprehension on this point, to silence the last suggestion of a possibility of any temporary deficit, I recur to a provision contained in two different clauses in the bank charter, copied from an amendment in the charter of the Bank of England, and expressly made, at the instance of the ministry, to meet the contingency of a temporary deficiency in the annual revenue. The English provision is this: that the Government may borrow of the bank half a million sterling, at any time, without a special act of Parliament to authorize it. The provision in our charter is the same, with the single substitution of dollars for pounds. It is, in words and intention, a standing authority to borrow that limited sum, for the obvious purpose of preventing a constant keeping of a sum of money in hand as a reserve, to meet contingencies which hardly ever occur. This contingent authority to effect a small loan, has often been used in England—in the United States, never; possibly, because there has been no occasion for it; probably, because the clause was copied mechanically from the English charter, and without the perception of its practical bearing. Be this as it may, it is certainly a wise and prudent provision, such as all Governments should, at all times, be clothed with.

If any Senator thinks that I have exaggerated the injury suffered by the United States, on account of the uncompensated masses of public money in the hands of the bank, I am now going to convince him that he is wrong. I am going to prove to him that I have understated the case; that I have purposely kept back a large part of it; and that justice requires a further development. The fact is,

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that there are two different deposits of public money in the bank; one in the name of the Treasurer of the United States, the others in the name of disbursing officers. The annual average of the former has been about three and a half millions of dollars, and of this I have said not a word. But the essential character of both deposits is the same; they are both the property of the United States; both permanent; both available as so much capital to the bank; and both uncompensated. Here is the statement of the monthly amount of these secondary deposits, as I find them on the bank returns; and to it I appeal for the verification of what I allege:

	1825.	1826.	1830.
January,	\$1,543,618	\$1,393,805	\$855,691
February,	1,888,764	1,434,800	1,562,841
March,	2,185,930	2,250,113	1,554,969
April,	1,489,934	1,638,146	1,652,841
May,	1,428,025	1,637,519	1,323,661
June,	1,532,258	2,301,787	1,346,206
July,	1,264,758	1,678,274	1,129,990
August,	1,375,492	2,032,684	875,459
September,	1,585,401	2,593,606	1,346,206
October,	2,042,345	1,733,621	1,334,681
November,	1,558,873	1,683,717	1,194,682
December,	1,576,997	2,112,097	1,616,656

I have not ascertained the average of these deposits since 1817, but presume it may equal the amount of that *bonus* of one million five hundred thousand dollars for which we sold the charter, and which the Finance Committee of the Senate compliments the bank for paying in three, instead of seventeen, annual instalments; and shows how much interest they lost by doing so. Certainly, this was a disadvantage to the bank. It would have been better for it to have dribbled out to us one hundred thousand dollars, instead of five hundred thousand dollars of our own money, at a time. But there are three considerations which should prevent her from complaining: first, that it was the bargain to pay in three years; secondly, that we furnished the money; thirdly, that we kept up the amount in her hand. Finally, these monthly returns show that the overdrawings, for permitting which the bank has been so much lauded, were overdrawings in name, not in fact; the amount of the money being only transferred to another deposit, and the money itself remaining in the hands of the bank.

Mr. President, it does seem to me that there is something ominous to the bank in this contest for compensation on the undrawn balances. It is the very way in which the struggle began in the British Parliament which has ended in the overthrow of the Bank of England. It is the way in which the struggle is beginning here. My resolutions of two and three years ago are the causes of the speech which you now hear; and, as I have reason to believe, some others more worthy of your hearing, which will come at the proper time. The question of compensation for balances is now mixing itself up here, as in England, with the question of renewing the charter; and the two, acting together, will fall with combined weight upon the public mind, and certainly eventuate here as they did there.

4. To discredit and disparage the notes of all other banks, by excluding them from the collection of the federal revenue.—This results from the collection—no, not the collection, but the receipt of the revenue having been committed to the bank, and along with it the virtual execution of the joint resolution of 1816, to regulate the collection of the federal revenue. The execution of that resolution was intended to be vested in the Secretary of the Treasury—a disinterested arbiter between rival banks; but it may be considered as virtually devolved upon the Bank of the United States, and powerfully increases the capacity of that institution to destroy, or subjugate, all other banks. The notes of the State banks excluded from

revenue payments, are discredited and disparaged, and fall into the hands of brokers at all places where they are not issued and payable. They cease to insulate at all the points to which the exclusion extends. I am informed that the notes of the banks south of the Potomac and Ohio, even those of the lower Mississippi, are generally refused at the United States' Branch Bank in St. Louis, and, in consequence, are expelled from circulation in Missouri and Illinois, and the neighboring districts. This exclusion of the Southern notes from the northwest quarter of the Union, is injurious to both parties, as our travellers and emigrants chiefly come from the South, and the whole of our trade goes there to find a cash market. The exclusion, as I am told, (for I have not looked into the matter myself,) is general, and extends to the banks in Virginia, the two Carolinas, Georgia, Alabama, Mississippi, and Louisiana. If this be the fact, the joint resolution of 1816 is violated: for, under the terms of that resolution, there are several banks in each of the States mentioned whose notes are receivable in the collection of federal revenue; that is to say, specie paying banks whose notes are payable, and paid, in specie, on demand. Yet, in consequence of exclusion from the United States' Branch Bank, they are excluded from all the land offices, eleven in number, which deposite in that branch; and, being excluded from the land offices, they cease to be current money among the people. If a traveller, or emigrant, brings these notes to the country, or receives them in remittance; if a trader accepts them in exchange for produce, they are "*shaved*" out of their hands, and sent out of the country. This is a pecuniary injury done to the Northwest; it may be more—it may be a political injury also; for it contributes to break the communication between the two quarters of the Union, and encourages the idea that nothing good can come from the South—not even money! This power to disparage the notes of all other banks, is a power to injure them; and, added to all the other privileges of the Bank of the United States, is a power to destroy them! If any one doubts this assertion, let him read the answers of the President of the bank to the questions put to him by the Chairman of the Finance Committee. These answers are appended to the committee's report of the last session in favor of the bank, and expressly declare the capacity of the federal bank to destroy the State banks. The worthy Chairman [Mr. SMITH, of Md.] puts this question: "Has the bank at any time oppressed any of the State banks?" The President, [Mr. BIDDLE,] answers, as the whole world would answer to a question of oppression, that it never had; and this response was as much as the interrogatory required. But it did not content the President of the bank; he chose to go further, and to do honor to the institution over which he presided, by showing that it was as just and generous as it was rich and powerful. He, therefore, adds the following words, for which, as a seeker after evidence, to show the alarming and dangerous character of the bank, I return him my unfeigned and pardonable thanks: "There are very few banks which might not have been destroyed by an exertion of the power of the bank."

"This is enough! proof enough! not for me alone, but for all who are unwilling to see a moneyed domination set up—a moneyed oligarchy established in this land, and the entire Union subjected to its sovereign will. The power to destroy all other banks is admitted and declared; the inclination to do so is known to all rational beings to reside with the power! Policy may restrain the destroying faculties for the present; but they exist; and will come forth when interest prompts and policy permits. They have been exercised; and the general prostration of the Southern and Western banks attests the fact. They will be exercised, (the charter being renewed,) and the remaining State banks will be swept with the besom of destruction. Not that all will have their signs knocked down,



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and their doors closed up. Far worse than that to many of them. Subjugation, in preference to destruction, will be the fate of many. Every planet must have its satellites; every tyranny must have its instruments; every knight is followed by his squire; even the king of beasts, the royal quadruped, whose roar subdues the forest, must have a small, subservient animal to spring his prey. Just so of this imperial bank, when installed anew in its formidable and lasting power. The State banks, spared by the sword, will be passed under the yoke. They will become subordinate parts in the great machine. Their place, in the scale of subordination will be one degree below the rank of the legitimate branches; their business, to perform the work which it would be too disreputable for the legitimate branches to perform. This will be the fate of the State banks which are allowed to keep up their signs, and to set open their doors; and thus the entire moneyed power of the Union would fall into the hands of one single institution, whose inexorable and invisible mandates, emanating from a centre, would pervade the Union, giving or withholding money according to its own sovereign will and absolute pleasure. To a favored State, to an individual, or a class of individuals, favored by the central power, the golden stream of Pactolus would flow direct. To all such the munificent mandates of the High Directory would come, as the fabled god made his terrestrial visit of love and desire, enveloped in a shower of gold. But to others—to those not favored—and to those hated—the mandates of this same directory would be as “the planetary plague which hangs its poison in the sick air:” death to them! death to all who minister to their wants! What a state of things! What a condition for a confederacy of States! What grounds for alarm and terrible apprehension, when, in a confederacy of such vast extent, so many independent States, so many rival commercial cities, so much sectional jealousy, such violent political parties, such fierce contests for power, there should be but one moneyed tribunal before which all the rival and contending elements must appear! but one single dispenser of money, to which every citizen, every trader, every merchant, every manufacturer, every planter, every corporation, every city, every State, and the Federal Government itself, must apply, in every emergency, for the most indispensable loan! and this, in the face of the fact, that, in every contest for human rights, the great moneyed institutions of the world have uniformly been found on the side of kings and nobles; against the lives and liberties of the people.

5. To hold real estate, receive rents, and retain a body of tenantry.—This privilege is hostile to the nature of our republican Government, and inconsistent with the nature and design of a banking institution. Republics want freeholders, not landlords and tenants; and, except the corporators in this bank, and in the British East India Company, there is not an incorporated body of landlords in any country upon the face of the earth whose laws emanate from a legislative body. Banks are instituted to promote trade and industry, and to aid the Government and its citizens with loans of money. The whole argument in favor of banking—every argument in favor of this bank—rests upon that idea. No one, when this charter was granted, presumed to speak in favor of incorporating a society of landlords, especially foreign landlords, to buy lands, build houses, rent tenements, and retain tenantry. Loans of money was the object in view, and the purchase of real estate is incompatible with that object. Instead of remaining bankers, the corporators may turn land speculators: instead of having money to lend, they may turn you out tenants to vote. To an application for a loan, they may answer, and answer truly, that they have no money on hand; and the reason may be, that they have laid it out in land. This seems to be the case at present. A committee of the Legislature of Pennsylvania has just

applied for a loan; the President of the bank, nothing loth to make a loan to that great State, for twenty years longer than the charter has to exist, expresses his regret that he cannot lend but a limited and inadequate sum. The funds of the institution, he says, will not permit it to advance more than eight millions of dollars. And why? because it has invested three millions in real estate! To this power to hold real estate, is superadded the means to acquire it. The bank is now the greatest moneyed power in the Union; in the event of the renewal of its charter, it will soon be the sole one. Sole dispenser of money, it will soon be the chief owner of property. To unlimited means of acquisition, would be united perpetuity of tenure; for a corporation never dies, and is free from the operation of the laws which govern the descent and distribution of real estate in the hands of individuals. The limitations in the charter are vain and illusory. They insult the understanding, and mock the credulity of foolish believers. The bank is first limited to such acquisitions of real estate as are necessary to its own accommodation; then comes a proviso to undo the limitation, so far as it concerns purchases upon its own mortgages and executions! This is the limitation upon the capacity of such an institution to acquire real estate. As if it had any thing to do but to make loans upon mortgages, and push executions upon judgments! Having all the money, it would be the sole lender; mortgages being the road to loans, all borrowers must travel that road. When birds enough are in the net, the fowler draws his string, and the heads are wrung off. So when mortgages enough are taken, the loans are called in; discounts cease; curtailments are made; failures to pay ensue; writs issue; judgments and executions follow; all the mortgaged premises are for sale at once; and the attorney of the bank appears at the elbow of the marshal, sole bidder, and sole purchaser.

What is the legal effect of this vast capacity to acquire, and this legal power to retain, real estate? Is it not the creation of a new species of mortmain? And of a kind more odious and dangerous than that mortmain of the church which it baffled the English Parliament so many ages to abolish. The mortmain of the church was a power in an ecclesiastical corporation to hold real estate, independent of the laws of distribution and descent: the mortmain of the bank is a power in a lay corporation to do the same thing. The evil of the two tenures is identical; the difference between the two corporations is no more than the difference between parsons and money changers; the capacity to do mischief incomparably the greatest on the part of the lay corporators. The church could only operate upon the few who were thinking of the other world; the bank, upon all who are immersed in the business or the pleasures of this. The means of the church were nothing but prayers; the means of the bank is money! The church received what it could beg from dying sinners; the bank may extort what it pleases from the whole living generation of the just and unjust. Such is the parallel between the mortmain of the two corporations. They both end in monopoly of estates, and perpetuity of succession; and the bank is the greatest monopolizer of the two. Monopolies and perpetual succession are the bane of republics. Our ancestors took care to provide against them, by abolishing entails and primogeniture. Even the glebes of the church, lean and few as they were in most of the States, fell under the republican principle of limited tenures. All the States abolished the anti-republican tenures; but Congress re-establishes them, and in a manner more dangerous and offensive than before the revolution. They are now given, not generally, but to few; not to natives only, but to foreigners also; for foreigners are large owners of this bank. And thus, the principles of the revolution sink before the privileges of an incorporated company. The laws of the States fall before the mandates of a central directory in Philadel-

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phia. Foreigners become the landlords of free born Americans; and the young and flourishing towns of the United States are verging to the fate of the family boroughs which belong to the great aristocracy of England.

Let no one say the bank will not avail itself of its capacity to amass real estate. The fact is, it has already done so. I know towns, yea, cities, and could name them, if it might not seem invidious from this elevated theatre to make a public reference to their misfortunes, in which this bank already appears as a dominant and engrossing proprietor. I have been in places where the answers to inquiries for the owners of the most valuable tenements, would remind you of the answers given by the Egyptians to similar questions from the French officers, on their march to Cairo. You recollect, no doubt, sir, the dialogue to which I allude: "Who owns that palace?" "The Mameluke;" "Who this country house?" "The Mameluke;" "These gardens?" "The Mameluke;" "That field covered with rice?" "The Mameluke."—And thus have I been answered, in the towns and cities referred to, with the single exception of the name of the Bank of the United States substituted for that of the military scourge of Egypt. If this is done under the first charter, what may not be expected under the second? If this is done while the bank is on its best behavior, what may she not do when freed from all restraint and delivered up to the boundless cupidity and remorseless exactions of a moneyed corporation?

6. To deal in pawns, merchandise, and bills of exchange.—I hope the Senate will not require me to read dry passages from the charter to prove what I say. I know I speak a thing nearly incredible when I allege that this bank, in addition to all its other attributes, is an incorporated company of pawnbrokers! The allegation staggers belief, but a reference to the charter will dispel incredulity. The charter, in the first part, forbids a traffic in merchandise; in the after part, permits it. For truly this instrument seems to have been framed upon the principles of contraries; one principle making limitations, and the other following after with provisos to undo them. Thus is it with lands, as I have just shown; thus is it with merchandise, as I now show. The bank is forbidden to deal in merchandise—proviso, unless in the case of goods pledged for money lent, and not redeemed to the day; and, proviso, again, unless for goods which shall be the proceeds of its lands. With the help of these two provisos, it is clear that the limitation is undone; it is clear that the bank is at liberty to act the pawnbroker and merchant, to any extent that it pleases. It may say to all the merchants who want loans, Pledge your stores, gentlemen! They must do it, or do worse; and, if any accident prevents redemption on the day, the pawn is forfeited, and the bank takes possession. On the other hand, it may lay out its rents for goods; it may sell its real estate, now worth three millions of dollars, for goods. Thus the bank is an incorporated company of pawnbrokers and merchants, as well as an incorporation of landlords and land-speculators; and this derogatory privilege, like the others, is copied from the old Bank of England charter of 1694. Bills of exchange are also subjected to the traffic of this bank. It is a traffic unconnected with the trade of banking, dangerous for a great bank to hold, and now operating most injuriously in the South and West. It is the process which drains these quarters of the Union of their gold and silver, and stifles the growth of a fair commerce in the products of the country. The merchants, to make remittances, buy bills of exchange from the branch banks, instead of buying produce from the farmers. The bills are paid for in gold and silver; and, eventually, the gold and silver are sent to the mother bank, or to the branches in the Eastern cities, either to meet these bills, or to replenish their coffers, and to furnish vast loans to favorite States or individuals. The bills sell cheap, say a fraction of one per cent.; they are, therefore, a good remittance to the merchant. To the

bank the operation is doubly good; for even the half of one per cent. on bills of exchange is a great profit to the institution which monopolizes that business, while the collection and delivery to the branches of all the hard money in the country is a still more considerable advantage. Under this system, the best of the Western banks—I do not speak of those which had no foundations, and sunk under the weight of neighborhood opinion—but those which deserved favor and confidence, sunk ten years ago. Under this system, the entire West is now undergoing a silent, general, and invisible drain of its hard money; and, if not quickly arrested, these States will soon be, so far as the precious metals are concerned, no more than the empty skin of an immolated victim.

7. To establish branches in the different States without their consent, and in defiance of their resistance.—No one can deny the degrading and injurious tendency of this privilege. It derogates from the sovereignty of a State; tramples upon her laws; injures her revenue and commerce; lays open her Government to the attacks of centralism; impairs the property of her citizens; and fastens a vampire on her bosom to suck out her gold and silver. 1. It derogates from her sovereignty, because the central institution may impose its intrusive branches upon the State without her consent, and in defiance of her resistance. This has already been done. The State of Alabama, but four years ago, by a resolve of her Legislature, remonstrated against the intrusion of a branch upon her. She protested against the favor. Was the will of the State respected? On the contrary, was not a branch instantaneously forced upon her, as if, by the suddenness of the action, to make a striking and conspicuous display of the omnipotence of the bank, and the nullity of the State?

2. It tramples upon her laws; because, according to the decision of the Supreme Court, the bank and all its branches are wholly independent of State legislation; and it tramples on them again, because it authorizes foreigners to hold lands and tenements in every State, contrary to the laws of many of them; and because it admits of the *mortmain* tenure, which is condemned by all the republican States in the Union. 3. It injures her revenue, because the bank stock, under the decision of the Supreme Court, is not liable to taxation. And thus, foreigners, and non-resident Americans, who monopolize the money of the State, who hold its best lands and town lots, who meddle in its elections, and suck out its gold and silver, and perform no military duty, are exempted from paying taxes, in proportion to their wealth, for the support of the State whose laws they trample upon, and whose benefits they usurp. 4. It subjects the State to the dangerous manoeuvres and intrigues of centralism, by means of the tenants, debtors, bank officers, and bank money, which the central directory retain in the State, and may embody and direct against it in its elections, and in its legislative and judicial proceedings. 5. It tends to impair the property of the citizens, and, in some instances, that of the States, by destroying the State banks in which they have invested their money. 6. It is injurious to the commerce of the States, (I speak of the Western States,) by substituting a trade in bills of exchange, for a trade in the products of the country. 7. It fastens a vampire on the bosom of the State, to suck away its gold and silver, and to co-operate with the course of trade, of federal legislation, and of exchange, in draining the South and West of all their hard money. The Southern States, with their thirty millions of annual exports in cotton, rice, and tobacco, and the Western States, with their twelve millions of provisions and tobacco exported from New Orleans, and five millions consumed in the South, and on the lower Mississippi,—that is to say, with three-fifths of the marketable productions of the Union, are not able to sustain thirty specie paying banks; while the minority of the States north of the Potomac, without any of the great

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staples for export, have above four hundred of such banks. These States, without rice, without cotton, without tobacco, without sugar, and with less flour and provisions, to export, are saturated with gold and silver, while the Southern and Western States, with all the real sources of wealth, are in a state of the utmost destitution. For this calamitous reversal of the natural order of things, the Bank of the United States stands forth pre-eminently culpable. Yes, it is pre-eminently culpable! and a statement in the National Intelligencer of this morning, (a paper which would overstate no fact to the prejudice of the bank,) cites and proclaims the fact which proves this culpability. It dwells, and exults, on the quantity of gold and silver in the vaults of the United States' Bank. It declares that institution to be "overburdened" with gold and silver; and well may it be so overburdened, since it has lifted the load entirely from the South and West. It calls these metals "a drug" in the hands of the bank; that is to say, an article for which no purchaser can be found. Let this "drug," like the treasures of the dethroned Dey of Algiers, be released from the dominion of its keeper; let a part go back to the South and West, and the bank will no longer complain of repletion, nor they of depletion.

8. Exemption of the stockholders from individual liability on the failure of the bank. This privilege derogates from the common law, is contrary to the principle of partnerships, and injurious to the rights of the community. It is a peculiar privilege granted by law to these corporators, and exempting them from liability, except in their corporate capacity, and to the amount of the assets of the corporation. Unhappily, these assets are never *assez*, that is to say, enough, when occasion comes for recurring to them. When a bank fails, its assets are always less than its debts; so that responsibility fails the instant that liability accrues. Let no one say that the Bank of the United States is too great to fail. One greater than it, and its prototype, has failed, and that in our own day, and for twenty years at a time: the Bank of England failed in 1797, and the Bank of the United States was on the point of failing in 1819. The same cause, namely, stockjobbing and overtrading, carried both to the brink of destruction; the same means saved both, namely, the name, the credit, and the helping hand of the Governments which protected them. Yes, the Bank of the United States may fail; and its stockholders live in splendor upon the princely estates acquired with its notes, while the industrious classes, who hold these notes, will be unable to receive a shilling for them. This is unjust. It is a vice in the charter. The true principle in banking requires each stockholder to be liable to the amount of his shares; and subjects him to the summary action of every holder on the failure of the institution, till he has paid up the amount of his subscription. This is the true principle. It has prevailed in Scotland for the last century; and no such thing as a broken bank has been known there in all that time.

9. To have the United States for a partner. Sir, there is one consequence, one result of all partnerships between a Government and individuals, which should of itself, and in a mere mercantile point of view, condemn this association on the part of the Federal Government. It is the principle which puts the strong partner forward to bear the burthen whenever the concern is in danger. The weaker members flock to the strong partner at the approach of the storm, and the necessity of venturing more to save what he has already staked, leaves him no alternative. He becomes the Atlas of the firm, and bears all upon his own shoulders. This is the principle: what is the fact? Why, that the United States has already been compelled to sustain the federal bank; to prop it with her revenues and its credit in the trials and crisis of its early administration. I pass over other instances of the damage suffered by the United States on account of this

partnership; the immense standing deposits for which we receive no compensation; the loan of five millions of our own money, for which we have paid a million and a half in interest; the five per cent. stock note, on which we have paid our partners four million seven hundred and twenty-five thousand dollars in interest; the loss of ten millions on the three per cent. stock, and the ridiculous catastrophe of the miserable *bonus*, which has been paid to us with a fraction of our own money: I pass over all this, and come to the point of a direct loss, as a partner, in the dividends upon the stock itself. Upon this naked point of profit and loss, to be decided by a rule in arithmetic, we have sustained a direct and heavy loss. The stock held by the United States, as every body knows, was subscribed, not paid. It was a stock note, deposited for seven millions of dollars, bearing an interest of five per cent. The inducement to this subscription was the seductive conception that, by paying five per cent. on its note, the United States would clear four or five per cent. in getting a dividend of eight or ten. This was the inducement; now for the realization of this fine conception. Let us see it. Here it is: an official return from the Register of the Treasury of interest paid, and of dividends received. The account stands thus:

Interest paid by the United States,	\$4,725,000
Dividends received by the United States,	4,629,426

Loss to the United States, 95,574

Disadvantageous as this partnership must be to the United States in a moneyed point of view, there is a far more grave and serious aspect under which to view it. It is the political aspect, resulting from the union between the bank and the Government. This union has been tried in England, and has been found there to be just as disastrous a conjunction as the union of church and State. It is the conjunction of the lender and the borrower, and holy writ has told us which of these categories will be master of the other. But suppose they agree to drop rivalry, and unite their resources. Suppose they combine, and make a push for political power: how great is the mischief which they may not accomplish! But, on this head, I wish to use the language of one of the brightest patriots of Great Britain; one who has shown himself, in these modern days, to be the worthy successor of those old iron barons whose patriotism commanded the unpurchaseable eulogium of the elder Pitt. I speak of Sir William Pulteney, and his speech against the Bank of England, in 1797.

THE SPEECH—*Extract.*—"I have said enough to show that Government has been rendered dependent on the bank, and more particularly so in the time of war; and though the bank has not yet fallen into the hands of ambitious men, yet it is evident that it might, in such hands, assume a power sufficient to control and overawe, not only the ministers, but king, lords, and commons. \* \* \* \* As the bank has thus become dangerous to Government, it might, on the other hand, by uniting with an ambitious minister, become the means of establishing a fourth estate, sufficient to involve this nation in irretrievable slavery, and ought, therefore, to be dreaded as much as a certain East India bill was justly dreaded, at a period not very remote. I will not say that the present minister, (the younger Pitt,) by endeavoring, at this crisis, to take the Bank of England under his protection, can have any view to make use, hereafter, of that engine to perpetuate his own power, and to enable him to domineer over our constitution: if that could be supposed, it would only show that men can entertain a very different train of ideas, when endeavoring to overset a rival, from what occurs to them when intending to support and fix themselves. My object is to secure the country against all risk either from the bank as opposed to Government, or as the engine of ambitious men."

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And this is my object also. I wish to secure the Union from all chance of harm from this bank. I wish to provide against its friendship, as well as its enmity—against all danger from its hug, as well as from its blow. I wish to provide against all risk, and every hazard; for, if this risk and hazard were too great to be encountered by King, Lords, and Commons, in Great Britain, they must certainly be too great to be encountered by the people of the United States, who are but commons alone.

10. To have foreigners for partners.—This, Mr. President, will be a strange story to be told in the West. The downright and upright people of that unsophisticated region believe that words mean what they signify, and that “the Bank of the United States” is the Bank of the United States. How great then must be their astonishment to learn that this belief is a false conception, and that this bank (its whole name to the contrary notwithstanding,) is just as much the bank of foreigners as it is of the Federal Government. Here I would like to have the proof—a list of the names and nations, to establish this almost incredible fact. But I have no access except to public documents, and from one of these I learn as much as will answer the present pinch. It is the report of the Committee of Ways and Means, in the House of Representatives, for the last session of Congress. That report admits that foreigners own seven millions of the stock of this bank; and every body knows that the Federal Government owns seven millions also.

Thus it is proved that foreigners are as deeply interested in this bank as the United States itself. In the event of a renewal of the charter they will be much more deeply interested than at present; for a prospect of a rise in the stock to two hundred and fifty, and the unsettled state of things in Europe, will induce them to make great investments. It is to no purpose to say that the foreign stockholders cannot be voters or directors. The answer to that suggestion is this: the foreigners have the money; they pay down the cash, and want no accommodations; they are lenders, not borrowers; and in a great moneyed institution such stockholders must have the greatest influence. The name of this bank is a deception upon the public. It is not the bank of the Federal Government, as its name would import, nor of the States which compose this Union; but chiefly of private individuals, foreigners as well as natives, denizens, and naturalized subjects. They own twenty-eight millions of the stock, the Federal Government but seven millions, and these seven are precisely balanced by the stock of the aliens. The Federal Government and the aliens are equal, owning one-fifth each; and there would be as much truth in calling it the English Bank as the Bank of the United States. Now mark a few of the privileges which this charter gives to these foreigners. To be landholders, in defiance of the State laws, which forbid aliens to hold land; to be landlords by incorporation, and to hold American citizens for tenants; to hold lands in mortmain; to be pawnbrokers and merchants by incorporation; to pay the revenue of the United States in their own notes; in short, to do every thing which I have endeavored to point out in the long and hideous list of exclusive privileges granted to this bank. If I have shown it to be dangerous for the United States to be in partnership with its own citizens, how much stronger is not the argument against a partnership with foreigners? What a prospect for loans when at war with a foreign Power, and the subjects of that Power large owners of the bank here, from which alone, or from banks liable to be destroyed by it, we can obtain money to carry on the war! What a state of things, if, in the division of political parties, one of these parties and the foreigners, coalescing, should have the exclusive control of all the money in the Union, and, in addition to the money, should have bodies of debtors, tenants, and bank officers stationed in all the States, with a supreme and irre-

sponsible system of centralism to direct the whole! Dangers from such contingencies are too great and obvious to be insisted upon. They strike the common sense of all mankind, and were powerful considerations for the old whig republicans for the non-renewal of the charter of 1791. Mr. Jefferson and the whig republicans staked their political existence on the non-renewal of that charter. They succeeded; and, by succeeding, prevented the country from being laid at the mercy of British and ultra-federalists for funds to carry on the last war. It is said the United States lost forty millions by using depreciated currency during the last war. That, probably, is a mistake of one-half. But be it so! For what are forty millions compared to the loss of the war itself—compared to the ruin and infamy of having the Government arrested for want of money—stopped and paralyzed by the reception of such a note as the younger Pitt received from the Bank of England in 1795?

11. Exemption from due course of law for violations of its charter.—This is a privilege which affects the administration of justice, and stands without example in the annals of republican legislation. In the case of all other delinquents, whether persons or corporations, the laws take their course against those who offend them. It is the right of every citizen to set the laws in motion against every offender; and it is the constitution of the law, when set in motion, to work through, like a machine, regardless of powers and principalities, and cutting down the guilty which may stand in its way. Not so in the case of this bank. In its behalf, there are barriers erected between the citizen and his oppressor, between the wrong and the remedy, between the law and the offender. Instead of a right to sue out a *scire facias* or a *quo warranto*, the injured citizen, with an humble petition in his hand, must repair to the President of the United States, or to Congress, and crave their leave to do so. If leave is denied, (and denied it will be whenever the bank has a peculiar friend in the President, or a majority of such friends in Congress, the convenient pretext being always at hand that the general welfare requires the bank to be sustained,) he can proceed no further. The machinery of the law cannot be set in motion, and the great offender laughs from behind his barrier at the impotent resentment of its helpless victim. Thus the bank, for the plainest violations of its charter, and the greatest oppressions of the citizen, may escape the pursuit of justice. Thus the administration of justice is subject to be strangled in its birth for the shelter and protection of this bank. But this is not all. Another and most alarming mischief results from the same extraordinary privilege. It gives the bank a direct interest in the Presidential and Congressional elections: it gives it need for friends in Congress and in the Presidential chair. Its fate, its very existence, may often depend upon the friendship of the President and Congress; and, in such cases, it is not in human nature to avoid using the immense means in the hands of the bank to influence the elections of these officers. Take the existing fact—the case to which I alluded at the commencement of this speech. There is a case made out, ripe with judicial evidence, and big with the fate of the bank. It is a case of usury at the rate of forty-six per cent., in violation of the charter, which only admits an interest of six. The facts were admitted, in the court below, by the bank's demurrer; the law was decided, in the court above, by the supreme judges. The admission concludes the facts; the decision concludes the law. The forfeiture of the charter is established; the forfeiture is incurred; the application of the forfeiture alone is wanting to put an end to the institution. An impartial President or Congress might let the laws take their course; those of a different temper might interpose their veto. What a crisis for the bank! It beholds the sword of Damocles suspended over its head! What an interest in keeping those away who might suffer the hair to be cut!

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12. To have all these unjust privileges secured to the corporators as a monopoly, by a pledge of the public faith to charter no other bank.—This is the most hideous feature in the whole mass of deformity. If these banks are beneficial institutions, why not several? one, at least, and each independent of the other, to each great section of the Union? If malignant, why create one? The restriction constitutes the monopoly, and renders more invidious what was sufficiently hateful in itself. It is, indeed, a double monopoly, legislative as well as banking; for the Congress of 1816 monopolized the power to grant these monopolies. It has tied up the hands of its successors; and if this can be done on one subject, and for twenty years, why not upon all subjects, and for all time? Here is the form of words which operate this double engrossment of our rights: "No other bank shall be established by any future law of Congress during the continuance of the corporation hereby enacted, for which the faith of Congress is hereby pledged;" with a proviso for the District of Columbia. And that no incident might be wanting to complete the title of this charter, to the utter reprobation of whig republicans, this compound monopoly, and the very form of words in which it is conceived, is copied from the charter of the Bank of England!—not the charter of William and Mary, as granted in 1694, (for the Bill of Rights was then fresh in the memories of Englishmen,) but the charter as amended, and that for money, in the memorable reign of Queen Anne, when a tory Queen, a tory Ministry, and a tory Parliament, and the apostle of toryism, in the person of Dr. Sacheverell, with his sermons of divine right, passive obedience, and non-resistance, were riding and ruling over the prostrate liberties of England! This is the precious period, and these the noble authors, from which the idea was borrowed, and the very form of words copied, which now figure in the charter of the Bank of the United States, constituting that double monopoly, which restricts at once the powers of Congress and the rights of the citizens.

These, Mr. President, are the chief of the exclusive privileges which constitute the monopoly of the Bank of the United States. I have spoken of them, not as they deserved, but as my abilities have permitted. I have shown you that they are not only evil in themselves, but copied from an evil example. I now wish to show you that the Government from which we have made this copy has condemned the original; and, after showing this fact, I think I shall be able to appeal, with sensible effect, to all liberal minds, to follow the enlightened example of Great Britain in getting rid of a dangerous and invidious institution, after having followed her pernicious example in assuming it. For this purpose, I will have recourse to proof, and will read from British state papers of 1826. I will read extracts from the correspondence between Earl Liverpool, first Lord of the Treasury, and Mr. Robinson, Chancellor of the Exchequer, on one side, and the Governor and Deputy Governor of the Bank of England on the other; the subject being the renewal, or rather non-renewal, of the charter of the Bank of England.

*Communications from the First Lord of the Treasury and Chancellor of the Exchequer to the Governor and Deputy Governor of the Bank of England.—Extracts.*

"The failures which have occurred in England, unaccompanied as they have been by the same occurrences in Scotland, tend to prove that there must have been an unsound and delusive system of banking in one part of Great Britain, and a solid and substantial one in the other. \* \* \* In Scotland, there are not more than thirty banks, (three chartered,) and these banks have stood firm amidst all the convulsions in the money market in England, and amidst all the distresses to which the manufacturing and agricultural interests in Scotland, as well as in England, have occasionally been subject. Banks of this description must necessarily be conducted upon the generally understood and

approved principles of banking. \* \* \* The Bank of England may, perhaps, propose, as they did upon a former occasion, the extension of the term of their exclusive privilege, as to the metropolis and its neighborhood, beyond the year 1833, as the price of this concession, [immediate surrender of exclusive privileges.] It would be very much to be regretted that they should require any such condition. \* \* \* It is obvious, from what passed before, that Parliament will never agree to it. \* \* \* Such privileges are out of fashion; and what expectation can the bank, under present circumstances, entertain that theirs will be renewed?"—Jan. 13.

*Answer of the Court of Directors.—Extract.*

"Under the uncertainty in which the Court of Directors find themselves with respect to the death of the bank, and the effect which they may have on the interests of the bank, this court cannot feel themselves justified in recommending to the proprietors to give up the privilege which they now enjoy, sanctioned and confirmed as it is by the solemn acts of the Legislature."—Jan. 20.

*Second communication from the Ministers.—Extract.*

"The First Lord of the Treasury and Chancellor of the Exchequer have considered the answer of the bank of the 20th instant. They cannot but regret that the Court of Directors should have declined to recommend to the Court of Proprietors the consideration of the paper delivered by the First Lord of the Treasury and the Chancellor of the Exchequer to the Governor and Deputy Governor on the 13th instant. The statement contained in that paper appears to the First Lord of the Treasury and the Chancellor of the Exchequer so full and explicit on all the points to which it related, that they have nothing further to add, although they would have been, and still are, ready to answer, as far as possible, any specific questions which might be put, for the purpose of removing the uncertainty in which the Court of Directors state themselves to be with respect to the details of the plan suggested in that paper."—Jan. 23.

*Second answer of the Bank.—Extract.*

"The Committee of Treasury [bank] having taken into consideration the paper received from the First Lord of the Treasury and the Chancellor of the Exchequer, dated January 23d, and finding that His Majesty's ministers persevere in their desire to propose to restrict immediately the exclusive privilege of the bank, as to the number of partners engaged in banking to a certain distance from the metropolis, and also continue to be of opinion that Parliament would not consent to renew the privilege at the expiration of the period of their present charter; finding, also, that the proposal by the bank of establishing branch banks is deemed by His Majesty's ministers inadequate to the wants of the country, are of opinion that it would be desirable for this corporation to propose, as a basis, the act of 6th of George the Fourth, which states the conditions on which the Bank of Ireland relinquished its exclusive privileges; this corporation waiving the question of a prolongation of time, although the committee [of the bank] cannot agree in the opinion of the First Lord of the Treasury and the Chancellor of the Exchequer, that they are not making a considerable sacrifice, advertising especially to the Bank of Ireland remaining in possession of that privilege five years longer than the Bank of England."—Jan. 25.

Here, Mr. President, is the end of all the exclusive privileges and odious monopoly of the Bank of England. That ancient and powerful institution, so long the haughty tyrant of the moneyed world—so long the subsidizer of Kings and ministers—so long the fruitful mother of national debt and useless wars—so long the prolific manufactory of nabobs and paupers—so long the dread dictator of its own terms to Parliament—now droops the conquered wing, lowers its proud crest, and quails under the blows



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of its late despised assailants. It first puts on a courageous air, and takes a stand upon privileges sanctioned by time, and confirmed by solemn acts. - Seeing that the ministers could have no more to say to men who would talk of privileges in the nineteenth century, and being reminded that Parliament was inexorable, the bully suddenly degenerates into the craven, and, from showing fight, calls for quarter. The directors condescend to beg for the smallest remnant of their former power, for five years only; for the city of London even; and offer to send branches into all quarters. Denied at every point, the subdued tyrant acquiesces in his fate, announces his submission to the spirit and intelligence of the age; and quietly sinks down into the humble, but safe and useful, condition of a Scottish provincial bank.

And here it is profitable to pause; to look back, and see by what means this ancient and powerful institution—this Babylon of the banking world—was so suddenly and so totally prostrated. Who did it? And with what weapons? Sir, it was done by that power which is now regulating the affairs of the civilized world. It was done by the power of public opinion, invoked by the working members of the British Parliament. It was done by Sir Henry Parnell, who led the attack upon the Wellington ministry on the night of the 15th of November; by Sir William Pulteney, Mr. Grenfell, Mr. Hume, Mr. Edward Ellice, and others, the working members of the House of Commons, such as had, a few years before, overthrown the gigantic oppressions of the salt tax. These are the men who have overthrown the Bank of England. They began the attack in 1824, under the discouraging cry of too soon, too soon—for the charter had then nine years to run! and ended with showing that they had begun just soon enough. They began with the ministers in their front, on the side of the bank, and ended with having them on their own side, and making them co-operators in the attack, and the instruments and inflictors of the fatal and final blow. But let us do justice to these ministers. Though wrong in the beginning, they were right in the end; though monarchists, they behaved like republicans. They were not Polignacs. They yielded to the intelligence of the age; they yielded to the spirit which proscribes monopolies and privileges, and in their correspondence with the bank directors, spoke truth and reason, and asserted liberal principles, with a point and power which quickly put an end to dangerous and obsolete pretensions. They told the bank the mortifying truths, that its system was unsolid and delusive—that its privileges and monopoly were out of fashion—that they could not be prolonged for five years even—nor suffered to exist in London alone; and, what was still more cutting, that the banks of Scotland, which had no monopoly, no privilege, no connexion with the Government, which paid interest on deposits, and whose stockholders were responsible to the amount of their shares—were the solid and substantial banks, which alone the public interest could hereafter recognise. They did their business, when they undertook it, like true men; and, in the single phrase, out of fashion, achieved the most powerful combination of solid argument, and contemptuous sarcasm, that ever was compressed into two words. It is a phrase of electrical power over the senses and passions. It throws back the mind to the reigns of the Tudors and Stuarts—the termagant Elizabeth and the pedagogic James—and rouses within us all the shame and rage we have been accustomed to feel at the view of the scandalous sales of privileges and monopolies which were the disgrace and oppression of these wretched times. Out of fashion! Yes; even in England, the land of their early birth, and late protection. And shall they remain in fashion here? Shall republicanism continue to wear, in America, the antique costume which the doughty champions of antiquated fashion have been compelled to doff in England? Shall English lords and ladies continue to find,

in the Bank of the United States, the unjust and odious privileges which they can no longer find in the Bank of England? Shall the copy survive here after the original has been destroyed there? Shall the young whelp triumph in America, after the old lion has been throttled and strangled in England? No! never! The thing is impossible! The Bank of the United States dies, as the Bank of England dies, in all its odious points, upon the limitation of its charter; and the only circumstance of regret is, that the generous deliverance is to take effect two years earlier in the British monarchy than in the American republic.

One word, Mr. President, upon an incidental topic. It is shown that the stock of the Bank of the United States has fallen five per cent. in consequence of the opinions disclosed in the President's messages; and, thereupon, a complaint is preferred against the President for depreciating the property of innocent and unoffending people. I made a remark upon this complaint in the beginning of my speech, and now have a word more to bestow upon it. I wish to contrast this conduct of the American stockholders with that of the Bank of England stockholders, in a similar, and to them, much more disastrous, case. The Bank of England stockholders also, have had a decline in the price of stock; not of five dollars, but of thirty-five pounds, in the share. Bank of England stock, in consequence of Earl Liverpool's communication, and of the debates in Parliament, has fallen from 238 to 203; equal to a loss of \$165 in every share. This is something more than \$5. Yet I have never heard that Earl Liverpool, or any member of Parliament, has been called to account for producing this depreciation. It would seem that the liberty of speech, and the rights of discussion, in Great Britain, extended to the affairs of the Bank of England; and that ministers and legislators were safe in handling it like any other subject.

Fourthly. I object, Mr. President, to the renewal of the bank charter, because this bank is an institution too costly and expensive for the American people to keep up.

Let no one cavil at this head of objection, under the belief that the Bank of the United States supports itself, like the hibernal bear, by sucking its own paws; or that it derives its revenues, as a spider spins its web, from the recesses of its own abdomen. Such a belief would be essentially erroneous, and highly unbecoming the intelligence of the nineteenth century. The fact is, that the bank lives upon the people! that all its expenses are made out of the people; all its profits derived from, and all its losses re-imbursed by, them. This is the naked truth; by consequence every shilling held, or issued, by the bank, over and above the capital stock, is a tax upon the people; and, as such, I shall look into the amount of the levy, and prove it to be too great for the people to bear any longer.

In the first place, we have the direct expenses of the bank, the actual cost of its annual administration. These expenses are returned at \$372,000 for the year 1830; and, assuming that sum for an average, the total cost of the administration for twenty years will be about seven and a half millions of dollars. The enormity of this sum must strike every mind; but, to judge it accurately, let us compare it to the expenses of some known establishment. Let us take the civil list of the Federal Government in the first term of President Washington's administration. Resorting to this standard, I find the expenditure of this branch of the Government to be: for 1792, \$381,000; for '93, \$358,000; for '94, \$441,000; for '95, \$361,000; presenting an annual average of \$385,000; which is but a trifle over the bank expenditure for 1830. Now, what were the heads of expenditure included in the civil list at the period referred to? They were the salaries of the President and Vice President; the salaries of all the Secretaries, their clerks and messengers, and the purchase of the paraphernalia of all their offices; compensation to both Houses of Congress, and the discharge of every attendant expense; salaries to



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all the federal judges, their marshals and district attorneys, and the cost of their court rooms; the expense of missions abroad, and of territorial governments at home. These were the items of the civil list; comprehending the whole expenditure of the administration for all objects, except the army; there being at that time no navy. The administration of the bank, therefore, actually involves an expenditure, rivalling that of the Federal Government in 1792, '93, '94 and '95; omitting the single item of the army, which was then on a war establishment. The next item of bank tax, is that of the profits, in the shape of annual dividends. These profits are now seven per cent; but have been less; and at one time, owing to an explosion produced by stock jobbing, were nothing. Assuming six per cent. for the average of twenty years, and the aggregate will be \$42,000,000. In the third place, the contingent fund, reserved to cover losses, is near 5,000,000 dollars. Fourthly, the real estate, including banking houses, is above 4,000,000 dollars. Fifthly, *bonus*, reimbursed to the bank, is 1,500,000 dollars. Sixthly, the interest on the public deposits, which the bank was receiving from the United States or individuals, while the United States were paying interest on the same amount to the bank or to others, was six millions of dollars on the standing deposit of about five millions. The aggregate is sixty-six millions of dollars; to say nothing of the profit on the stock itself, which is now twenty-six per cent., equal to \$9,000,000 addition to the original capital. The annual average of this aggregate levy of sixty six millions, is above three millions and a quarter of dollars; being very nearly as much as the whole expenditure of the Federal Government in the second year of Mr. Jefferson's administration, which was but 3,737,000 dollars, the army included, and the navy also, which had then sprung into existence. Will Senators reflect upon the largeness of this levy, and consider how much it adds to the multiplied burdens of our complicated system of taxation? I say complicated: for, under our duplicate form of government, every citizen is many times taxed, and by various authorities. First, his State tax, then his county tax, then his corporation tax, (if he live in a city,) then his federal tax, and, since 1816, his bank tax. The amount of each is considerable, of the whole, is excessive; of the bank tax, in addition to the others, intolerable. The direct tax of 1798, which contributed so much to the overthrow of the men then at the head of affairs, was an inconsiderable burden compared to this bank levy. Not so much as one million was ever paid in any one year under the direct tax; while the annual levy of the bank tax is three millions and a quarter. The one is as truly a tax as the other, and as certainly paid by the people; and, as the reduction of taxes is now the policy of the country, I present this contribution to the federal bank, as the fit and eminent item to head and grace the list of abolition. I say, to head and grace the list! For it is a tax not only great in itself, and levied to support a most dangerous and invidious institution, but doubly and peculiarly oppressive upon the people, because no part of it is ever refunded to them in the shape of beneficent expenditure. In the case of every other tax, in all the contributions levied for the purposes of Government, there is some alleviation of the burden—some restitution of the abducted treasure—some return to the people—some re-infusion of strength into their ranks—in the customary reimbursement of the revenue. The Government usually pays it back, or a portion of it, for salaries, services, and supplies. But, in the case of the bank tax, there is nothing of this reimbursement. The bank refunds nothing; but all the money it makes out of the people is gone from them forever. It goes into a corner of the Union, and remains there: it goes into private hands, and becomes individual property. The stockholders divide it among themselves. Twice, in every year, they make the division of these modern *spolia opima*—these dearest spoils—not of the enemy's general

killed in battle, but of American citizens fleeced at home. This is a grievous aggravation of the amount of the tax. It is the aggravation which renders taxation insupportable. It is "absenteeism" in a new and legalized form. It is the whole mischief of that system of absenteeism, which drains off the wealth of Ireland to fertilize England, France, and Italy, leaving Ireland itself the most distressed and exhausted country in Europe, instead of remaining, as God created it, one of the richest and most flourishing. Eternal drawing out, and no bringing back, is a process which no people, or country, can endure. It is a process which would exhaust the resources of nature herself. The earth would be deprived of its moisture, and changed into a desert, if the exhalations of the day did not return in dews at night. The vast ocean itself, with all its deep and boundless waters, would be sucked up and dried away, if the vapors drawn up by the sun did not form into clouds, and descend in rain and snow. So will any people be exhausted of their wealth, no matter how great that wealth may be, whose miserable destiny shall subject them to a system of taxation which is forever levying, and never refunding: a system whose cry is that of the horse-leech, more! more! more!—whose voice is that of the grave, give! give! give!—whose attribute is that of the grave also, never to render back!—and, such precisely is the system of taxation to which the people of these States are now subjected by the federal bank.

Of the three great divisions, Mr. President, into which this question divides itself, I have touched but one. I have left untouched the constitutional difficulty, and the former mismanagement of the bank. I have handled the question as if the constitutional authority for the bank was express, and as if its whole administration had been free from reproach. I have looked to the nature of the institution alone; and, finding in its very nature insurmountable objections to its existence, I have come to the conclusion that the public good requires the institution to cease. I believe it to be an institution of too much power; of tendencies too dangerous; of privileges too odious; of expense too enormous, to be safely tolerated under any Government of free and equal laws. My mind is made up that the present charter ought to be allowed to expire on its own limitation; and, that no other, or subsequent one, should ever after be granted. This is my opinion; I may add, my belief: for I have the consolation to believe that the event will not deceive my hopes.

I am willing to see the charter expire, without providing any substitute for the present bank. I am willing to see the currency of the Federal Government left to the hard money mentioned and intended in the constitution; I am willing to have a hard money Government, as that of France has been since the time of *assignats* and *mandats*. Every species of paper might be left to the State authorities, unrecognized by the Federal Government, and only touched by it for its own convenience when equivalent to gold and silver. Such a currency filled France with the precious metals, when England, with her overgrown bank, was a prey to all the evils of unconvertible paper. It furnished money enough for the imperial Government when the population of the empire was three times more numerous, and the expenses of Government twelve times greater, than the population and expenses of the United States; and, when France possessed no mines of gold or silver, and was destitute of the exports which command the specie of other countries. The United States possess gold mines, now yielding half a million per annum, with every prospect of equalling those of Peru. But this is not the best dependence. We have what is superior to mines, namely, the exports which command the money of the world; that is to say, the food which sustains life, and the raw materials which sustain manufactures. Gold and silver is the best currency for a republic; it suits the men of middle property and the working people best; and if I

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was going to establish a working man's party, it should be on the basis of hard money; a hard money party against a paper party.

I would prefer to see the charter expire without any substitute; but I am willing to vote for the substitute recommended by the President, stripped as it is of all power to make loans and discounts. Divested of that power, it loses the essential feature, and had as well lose the name, of a bank. It becomes an office in the treasury, limited to the issue of a species of exchequer bills, differing from the English bills of that name in the vital particular of a prompt and universal convertibility into coin. Such bills would be in fact, as well as in name, the promissory notes of the United States of America. They would be payable at every land office, custom-house, and post office, and by every collector of public moneys, in the Union. Payable every where, they would be at par every where. Equal to gold and silver on the spot, they would be superior to it for travelling and remittances. This is not opinion, but history. Our own country, this Federal Government, has proved it; and that on a scale sufficiently large to test its operation, and recent enough to be remembered by every citizen. I allude to the Mississippi scrip, issued from the Treasury some fifteen years ago. This scrip was no way equal to the proposed exchequer bills: for its reception was limited to a single branch of the revenue, namely, lands, and to a small part of them; and the quantity of scrip, five millions of dollars, was excessive, compared to the fund for its redemption; yet, as soon as the land offices of Alabama and Mississippi opened, the scrip was at par, and currently exchanged for gold and silver, dollar for dollar. Such, and better, would be the proposed bills. To the amount of the revenues, they would be founded on silver. This amount, after the payment of the public debt, (post office included,) may be about fifteen millions of dollars. They would supply the place of the United States' notes as they retired; and, issuing from the Treasury only in payments, or exchange for hard money, all room for favoritism, or undue influence, would be completely cut off. If the Federal Government is to recognise any paper, let it be this. Let it be its own.

I have said that the charter of the Bank of the United States cannot be renewed. And in saying this, I wish to be considered, not as a heedless denunciator, supplying the place of argument by empty menace, but as a Senator, considering well what he says, after having attentively surveyed his subject. I repeat, then, that the charter cannot be renewed! And, in coming to the conclusion of this peremptory opinion, I acknowledge no necessity to look beyond the walls of this Capitol—bright as may be the consolation which rises on the vision from the other end of the avenue!—I confine my view to the halls of Congress, and joyfully exclaim, it is no longer the year 1816! Fifteen years have gone by; times have changed; and former arguments have lost their application. We were then fresh from war, loaded with debt, and with all the embarrassments which follow in the train of war. We are now settled down in peace and tranquillity, with all the blessings attendant upon quiet and repose. There is no longer a single consideration urged in favor of chartering the bank in 1816, which can have the least weight or application, in favor of rechartering it now. This is my assertion! a bold one it may be; but no less true than bold. Let us see! What were the arguments of 1816? Why, first, "to pay the public creditors." I answer this is no longer any thing: for before 1836, that function will cease: there will be no more creditors to pay. 2. "To transfer the public moneys." That will be nothing: for after the payment of the public debt, we shall have no moneys to transfer. The twelve millions of dollars which are now transferred annually to the Northeast, to pay the public creditors, will then remain in the pockets of the people,

and the reduced expenditures of the Government will be made where the money is collected. The army and the navy, after the extinction of the debt, will be the chief objects of expenditure; and they will require the money, either on the frontiers, convenient to the land office, or on the seaboard, convenient to the custom-houses. Thus will transfers of revenue become unnecessary. 3. "To make loans to the Federal Government." That is nothing: for the Federal Government will want no loans in time of peace, not even out of its own deposits; and the prospect of war is rather too distant at present to make new loans on that account. 4. "To pay the pensioners." That is something now, I admit, when the pensioners are still fifteen thousand, and the payments exceed a million per annum. But what will it be after 1836? When the hand of death, and the scythe of time, shall have committed five years more of ravages in their senile ranks. The mass of these heroidal monuments are the men of the Revolution. They are far advanced upon that allegorical bridge so beautifully described in the vision of Mirza. They have passed the seventy arches which are sound and entire, and are now treading upon the broken ones, where the bridge is full of holes, and the clouds and darkness setting in. At every step some one stumbles and falls through, and is lost in the ocean beneath. In a few steps more the last will be gone. Surely it cannot be necessary to keep up for twenty years, the vast establishment of the federal bank to pay the brief stipends of these fleeting shadows. Their country can do it—can pay the pensions as well as give them—and do it for the little time that remains, with no other regret than that the grateful task is to cease so soon. 5. "To regulate the currency." I answer, the joint resolution of 1816 will do that, and will effect the regulation without destroying on one hand, and without raising up a new power, above regulation, on the other. Besides, there is some mistake in this phrase currency. The word in the constitution is coin. It is the value of coin which Congress is to regulate; and to include bank notes under that term, is to assume a power, not of construction—for no construction can be wild and boundless enough to construe coin, that is to say, metallic money, melted, cast, and stamped, into paper notes printed and written—but it is to assume a power of life and death over the constitution; a power to dethrone and murder one of its true and lawful words, and to set up a bastard pretender in its place. I invoke the spirit of America upon the daring attempt! 6. "To equalize exchanges, and sell bills of exchange for the half of one per cent." This is a broker's argument, very fit and proper to determine a question of brokerage; but very insufficient to determine a question of great national policy, of State rights, of constitutional difficulty, of grievous taxation, and of public and private subjugation to the beck and nod of a great moneyed oligarchy. 7. "A bonus of a million and a half of dollars." This, Mr. President, is Esau's view of the subject; a very seductive view to an improvident young man, who is willing to give up the remainder of his life to chains and poverty, provided he can be so-laced for the present with a momentary and insignificant gratification. But what is it to the United States!—to the United States of 1836! without a shilling of debt, and mainly occupied with the reduction of taxes! Still this bonus is the only consideration that can now be offered, and surely it is the last one that ought to be accepted. We do not want the money; and, if we did, the recourse to a bonus would be the most execrable form in which we could raise it. What is a bonus? Why, in monarchies, it is a price paid to the King for the privilege of extorting money out of his subjects; with us, it is a price paid to ourselves for the privilege of extorting money out of ourselves. The more of it the worse; for it all has to be paid back to the extortioners, with a great interest upon it. It is related by the English historian, Clarendon, who cannot be

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suspected of overstating any fact to the prejudice of the Stuart Kings, that for £1,500 advanced to Charles the First in bonuses, not less than £200,000 were extorted from his subjects: being at the rate of £133 taken from the subject for £1 advanced to the King. What the Bank of the United States will have made out of the people of the United States, in twenty years, in return for its bonus of \$1,500,000, (which, I must repeat, has been advanced to us out of our own money,) has been shown to be about sixty-six millions of dollars. What it would make in the next twenty years, when secure possession of the renewed charter should free the institution from every restraint, and leave it at full liberty to pursue the money, goods, and lands of the people in every direction, cannot be ascertained. Enough can be ascertained, however, to show that it must be infinitely beyond what it has been. There are some data upon which some partial and imperfect calculations can be made, and let us essay them. In the first place, the rise of the stock, which cannot be less than that of the Bank of England, in its flourishing days, (probably more, as all Europe is now seeking investments here,) may reach 250 per cent., or 150 above par. This, upon a capital of 35 millions, would give a profit of \$42,500,000; a very pretty sum to be cleared by operation of law!—to be added to the fortunes of some individuals, aliens as well as citizens, by the mere passage of an act of Congress! In the next place, the regular dividends, assuming them to equal those of the Bank of England in its meridian, would be ten per cent. per annum. This would give \$3,500,000 for the annual dividend; and \$70,000,000 for the aggregate of twenty years. In the third place, the direct expenses of the institution, now less than \$400,000 per annum, would, under the new and magnificent expansion which the operations of the bank would take, probably exceed half a million per annum; say \$10,000,000 for the whole term. Putting these three items together, which is as far as data in hand will enable us to calculate, and we have \$122,500,000 of profits made out of the people, equal to a tax of \$6,000,000 per annum. How much more may follow is wholly unascertainable, and would depend upon the moderation, the justice, the clemency, the mercy and forbearance of the supreme central directory, who, sitting on their tripods, and shaking their tridents over the moneyed ocean, are able to raise, and repress, the golden waves at pleasure; who, being chief purchasers of real estate, may take in towns and cities, and the whole country round, at one fell swoop; who, being sole lenders of money, may take usury, not only at 46, but at 460 per cent.; who, being masters of all other banks, and of the Federal Government itself, may compel these tributary establishments to ransom their servile existences with the heavy, and repeated, exactions of Algerine cupidity. The gains of such an institution defy calculation. There is no example on earth to which to compare it. The bank of England, in its proudest days, would afford but an inadequate and imperfect exemplar; for the power of that bank was counterpoised, and its exactions limited, by the wealth of the landed aristocracy, and the princely revenues of great merchants and private bankers. But with us, there would be no counterpoise, no limit, no boundary, to the extent of exactions. All would depend upon the will of the supreme central directory. The nearest approach to the value of this terrific stock, which my reading has suggested, would be found in the history of the famous South Sea Company of the last century, whose shares rose in leaps from 100 to 500, and from 500 to 1,000 per cent.; but, with this immeasurable and lamentable difference that that was a bubble! this, a reality! And who would be the owners of this imperial stock? Widows and orphans, think you? as ostentatiously set forth in the report of last session? No, sir! a few great capitalists; aliens, denizens, naturalized subjects, and some native citizens, already the richest of the land, and who would

avail themselves of their intelligences, and their means, to buy out the small stockholders on the eve of the renewal. These would be the owners. And where would all this power and money centre? In the great cities to the northeast, which have been for forty years, and that by force of federal legislation, the lion's den of Southern and Western money—that den into which all the tracks point inwards; from which the returning track of a solitary dollar has never yet been seen. And, this is the institution for which a renewed existence is sought—for which the votes of the people's representatives are claimed! But, no! Impossible! It cannot be! The bank is done. The arguments of 1816 will no longer apply. Times have changed; and the policy of the Republic changes with the times. The war made the bank; peace will unmake it. The baleful planet of fire, and blood, and every human woe, did bring that pestilence upon us; the benignant star of peace shall chase it away. Having concluded—

Mr. WEBSTER demanded the yeas and nays on the question to grant leave for the introduction of the resolution; and the vote being taken, was decided, without further debate, as follows:

YEAS—Messrs. Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Forsyth, Grundy, Hayne, Iredell, King, M'Kinley, Poindexter, Sanford, Smith, of S. C., Tazewell, Troup, Tyler, White, Woodbury—20.

NAYS—Messrs. Barton, Bell, Burnet, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Livingston, Marks, Noble, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, of Md., Sprague, Webster, Willey—23.

So the Senate refused leave for the introduction of the resolution.

Mr. GRUNDY said, that, in the select committee appointed to examine into the condition of the Post Office Department, a serious difference of opinion existed in relation to the description of testimony to be brought before them; and that he, for one, was unwilling that the opinions of part of that committee should prevail, without the concurrence of the Senate. He, therefore, submitted the following resolution:

*Resolved*, That the select committee appointed on the 15th day of December last, to inquire into the condition of the Post Office Department, are not authorized to call before them the persons who have been dismissed from office, for the purpose of ascertaining the reasons or causes of their removal.

Adjourned.

THURSDAY, FEBRUARY 3.

The resolution of Mr. GRUNDY, on the subject of certain witnesses proposed to be examined in relation to the causes of their removal from the Post Office Department, was taken up, and again, in consequence of the absence of the honorable Senator, laid on the table.

#### INDIAN ANNUITY.

On motion of Mr. DUDLEY, the bill from the House granting an annuity of \$6,000 to the Seneca tribe of Indians was taken up, together with the amendments of Mr. SMITH, of Md., and considered as in Committee of the Whole.

Mr. SMITH, of Md., said, that, when this bill was laid on the table, some days ago, he had addressed a letter to the Secretary of War, asking information on the subject, and, in consequence, he had received an answer from the Secretary, enclosing a letter from a Mr. Nourse, one of the clerks in the Register's Office, addressed to him, containing all the facts that were necessary for a proper understanding of the matter. There would be some little confusion, Mr. S. said, in the accounts be-

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tween the Indians and the United States, in passing the bill in its original shape, as it came from the House; inasmuch as it would be giving an annuity of \$6,000 without any equivalent for it. He had, therefore, introduced the amendment to transfer the stock, which was now held for the use of the Indians, to the United States, inasmuch as they required nothing more than the annuity, and the United States would be justly entitled to the stock for guarantying it to them. Upon the tribe's becoming extinct, the stock would, of course, revert to the United States; and it would therefore be better to transfer it at once than pursue the course originally pointed out in the bill. It would be simplifying what was complex; the subject would be put an end to; and the Indians and the Government would be relieved from any further difficulties in relation to it.

Mr. FORSYTH said he could not perceive the necessity of any legislation upon this subject. It is now, said Mr. F., well understood that the Government of the United States has never received any benefit from the Seneca tribe of Indians, for which this claim is made. The President of the United States has been made their trustee—has assumed a guardianship, in which the Congress of the United States has no concern; and all he has to do with it is to see that the stock entrusted to him is vested in the best possible manner, and that they duly receive the amount accruing from it. There was a time when these Indians received more than six thousand dollars per annum for their hundred thousand dollars worth of stock; that is, when their fund was invested in Bank of the United States' stock, when they received seven per cent. When their stock produced more than six thousand dollars, the whole amount was paid to them; but, since that stock had been less productive, since it had been invested in three per cents, all that had been done had tended to impose on the United States a pecuniary burthen. The terms of the contract were not, that the President of the United States should see that the fund always yielded six per cent. per annum; but that he should make the best disposition of it in his power; and this, it was admitted, had been done. There was then no further obligation on him, or on the Government. But it seemed the United States were considered as bound to these Indians, because the President of the United States had become the trustee of funds paid by the Holland Land Company for lands sold by the Indians to that Company.

This matter had already cost the Government a very considerable amount over and above the product of the stock, and now the question arises, are we bound to do more, after doing all we have already gratuitously performed? But it is said the Indians have been given to understand that the full amount of six thousand dollars should be paid to them. Who gave them to understand this? Who had a right to do so? And yet it was on such loose declarations that the whole merits of this claim seemed to rest. It is contended that the Government is bound to realize to these Indians any expectations they may have been induced to entertain. It is true, it is said that the late President of the United States, when the subject was before him, had given them these assurances. This, however, did not establish the justice of the demand. He could see no sort of obligation on the part of the Government to pay them more than the amount produced by their stock. The original arrangement (which, by the way, he considered a very foolish one, though it was made by the authority of Congress,) was to create the President of the United States a trustee or guardian for the safe keeping of this fund of one hundred thousand dollars, which they had undoubted right to—it was theirs; and it remained between them and their trustee,

the President of the United States, to settle the disposition of it. The same authority that constituted him a trustee, and enabled him to invest or transfer that stock, would also authorize him to sell it, and make such disposal of it as might be deemed expedient.

But there is another view of this subject, said Mr. F. The letter from the War Department, just now submitted to us by the gentleman from Maryland, [Mr. SMITH,] informs us that the Holland Land Company, looking forward to the extinguishment of this tribe, contemplated, on the consummation of that event, setting up a claim to this \$100,000 of stock. They say it then belongs to them. Suppose, after our making this compulsory contract with the Senecas to pay them \$6,000 annually, the Holland Land Company should establish their claim to the reversion of this \$100,000; in what light would the proposed measure be viewed, if adopted?

Mr. F. concluded by repeating, he saw no sort of necessity for further legislation upon this subject. If the Indians were willing to take the product of their stock, as it is, in the three per cents., let them, in Heaven's name, have it. The matter, according to his views, laid just where it should lay, and he hoped it might remain so. He, therefore, moved an indefinite postponement of the bill.

Mr. SANFORD said the gentleman from Georgia supposed that there was no obligation on the part of the Government of the United States to do justice to the Seneca Indians; that the fund belonging to them had been placed in the hands of the President, as trustee, in his individual, and not in his official, capacity. Pray, sir, said Mr. S., how comes it, then, that this subject has been brought before us by the President himself? Is it not to be found in his message of the last session, in which he says he cannot do justice to these Indians without the intervention of Congress? If the gentleman would please to refer to the message of the President, and the report of the Secretary of war, he would find that those officers of the Government deemed it a matter in which the United States was concerned.

The gentleman was mistaken in supposing that the trusteeship of the President imposed no obligation on the Government. The President, as the official organ of the Government, became the voluntary trustee. The Indians sold their lands to Robert Morris, with the consent and approbation of the Government, and the Government voluntarily assumed the office of trustee for the safe investment of the purchase money. It was well known that it never was the practice of the Government to suffer any treaty to be held with the Indians without becoming a party to it; and, in the treaty held for the sale of these lands, the agent of the Government attended and sanctioned the whole proceedings. The gentleman from Georgia remarked, that the President might sell the stock, pay the Indians their \$100,000, and get rid of the business. Mr. S. did not know, but he believed the Indians would be as glad to get their \$100,000, and get rid of the business, as the gentleman from Georgia; that is, if they were to have no income, they would rather have their money. But this could not be done without legislation. The President had presented the subject to the consideration of Congress; and, even if the Indians were to be paid back their money, the action of Congress would be necessary. But it had been urged that various changes had been made; the money had first been invested in stock of the Bank of the United States, then in six per cents., and lastly in three per cents. Suppose we refuse to pay the Indians, because of these changes; would that be just? Who made those changes? Not the Indians, but ourselves. The investments were made by the trustee, according to his

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best judgment, without the knowledge or consent of the Indians; and they were always contented as long as they received what they considered a sufficient interest on their money. Mr. S. then urged that the amendment was unnecessary; he hoped it would not be persisted in, inasmuch as it would again change the relations between the United States and the Indians without their consent.

After some further arguments in favor of the bill, and against the amendment, Mr. S. concluded, by expressing his hope that the Senate would do full justice to the Seneca Indians, and not leave them in a situation to receive only two or three thousand dollars interest on their capital, when they had always been taught to believe themselves fairly entitled to an interest of six thousand dollars.

Mr. FORSYTH said, perhaps he did not understand this subject so well as the gentleman from New York, [Mr. SANFORD,] but he must repeat, that he did not yet see a necessity for any legislation on this subject. The stock is invested at the discretion of the President, as the trustee of the Indians. He is bound to render them an account of it, and is ready to do so. He has the power to sell out the stock, and return them their money, if they wish it. This would, probably, be the most simple and equitable method that could be adopted. At all events, said Mr. F., we have nothing to do with it. He condemned the foolish plan by which the President was involved in such guardianships. It was imposing upon him duties and responsibilities which did not rightfully pertain to his station. The gentleman from New York supposes that there was an obligation on the part of the United States to guaranty that the stock yield perpetually the annual sum of six thousand dollars. Where did the gentleman get that idea? He, Mr. F., could find nothing of it in the documents belonging to the case. If the original contract was that the Indians should receive six per cent., why did they for so many years get seven per cent.? On the reasoning of the gentleman, the Government was as much bound to give seven as six per cent. But the honorable gentleman says the subject has been brought to the notice of Congress by the President himself! Well, sir, in so doing, the President has but done his duty. He found, on coming into office, that his predecessor had been paying out of the coffers of the treasury \$6,000, instead of \$3,190, without the shadow of authority; and finding that the Indians expected a continuance of a practice he could not sanction, he very properly brought the affair before Congress. Does any one, said Mr. F., question the correctness of the course pursued by the President in this matter? No one did. It had been admitted on all hands to be perfectly correct. Well, sir, shall we, by legislation, sanction a proceeding which the President condemns? It is not pretended that the Government is in any way bound, except by the guardianship of the fund so thoughtlessly undertaken. But, at that time, these Indians were the wards of the United States; that wardship has ceased, and they are now, with the exception of those going to Green Bay, under the guardianship of the State of New York. Mr. F. was for leaving the matter as it stood. If the Indians were dissatisfied, it was not the fault of the Government. The same authority that vested the stock in the President's hands, could authorize him to sell it. It would now bring one hundred and four thousand dollars. If they preferred the money to the stock, let them have it. He did not know whether this would be proper, but, for his own part, he would willingly vote for an appropriation for the purchase of the stock. If they wish to sell, the Government has as much a right to buy as any other individual.

Mr. BIBB said, he conceived this to be a most just and equitable claim. It accrued under the superintendence of the Government, by its agents, in the purchase of the Indian lands. Massachusetts, New York, and the General Government, were severally anxious for the extinguish-

ment of the Indian title to these lands. A treaty was entered into, and the lands were sold to Robert Morris for one hundred thousand dollars, which was invested in the stock of the old Bank of the United States. The whole matter was reported to Congress, and approved of by that body. By the terms of the treaty itself, the guardianship of this money was invested in the political personage denominated by the constitution, the President of the United States. The arrangement did not contemplate entrusting the money to a Washington and Adams, or to any other individual. It was, therefore, an act of the Government, and an officer of that Government was made, *ex officio*, the repository of the fund in question. And are we, the Government of the United States, to lead these poor savages astray? Shall we take advantage of their ignorance, simply because we have them in our power? Now, if there is a principle on earth, said Mr. B., that I hold more sacred than another, it is that the Government should act with magnanimity, justice, and equity, towards these savages. The Government make treaties with them, in their own form; they write them down, in their own way; and shall we write articles of agreement with them in our own language, and interpret them to suit our own purposes? God forbid! This stock, to be sure, was first invested in the stock of the Bank of the United States; but what did they know of the nature of the Bank of the United States? They supposed that, by the terms of their treaty, they had secured to themselves, and their tribe, a permanent fund of six thousand dollars per annum. But how are their expectations realized? I call it an act of the Government, said Mr. B., as it undoubtedly is. The President is the agent, *ex officio*, and the fund is vested, in good faith, in the hands of the Government. Inasmuch as they have done all this, shall we not preserve our faith towards them? What do they know of five or six per cent. stocks? It is utterly beyond their comprehension. Mr. B. said he looked upon it as a mere matter of equity, that the Government should be willing to abide by the rules which she metes out to others. It was no more than just that she should allow the same rate of interest for debts due from her, as she demands from those indebted to her. From public debtors she exacts an interest of six per cent., and I know of no better rule to be applied to the present case. Mr. B. also disapproved of the attempt on the part of the gentleman from Maryland, [Mr. SMITH,] to decrease the amount to be paid to the Indians, as this seemed to be the purport of his amendment. He contended that the Government had already received this money. It was already paid into the treasury, and he trusted that a majority of the Senate would come to the just conclusion of guarantying to the Senecas a permanent annuity of six per cent. on their stock, or six thousand dollars per annum, and thus preserve that justice, good faith, and scrupulous integrity towards them, which it was so essential to the national honor should be preserved.

Mr. WHITE observed, that he did not think it made much difference to the parties, whether the bill passed as it came from the House of Representatives, or as amended by the gentleman from Maryland, [Mr. SMITH,] He, for his part, would prefer the original bill, inasmuch as it would, if it passed here with the amendment, be embarrassed, by having to undergo the revision of the other House. It had been stated that, when the treaty was held with the Seneca Indians for the sale of their lands, the agent of the United States was present, and sanctioned the agreement by which the President became the trustee for the disposition of the purchase money. This, he believed, was correct. The Indians being about to sell, and wishing to make some permanent arrangement by which the sum to be paid them should be safely invested, agreed that the President of the United States, not as an individual, but describing him in his official character, should, as their trustee, invest this money in stock of the Bank of



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the United States, to be held for their use, the interest on which to be annually paid them. This was done; and as long as the bank continued in operation, there was no difficulty whatever. The Indians annually received their interest, and were perfectly satisfied. But when the charter of the bank expired, the President, without consulting them, but believing he was doing that which was the most conducive to their interests, vested their funds in United States' six per cents. This investment created no difficulty, for the Indians still annually received an interest which they conceived equivalent to the value of their capital. On the paying off, however, of the six per cents, the President, with the like good motives, again invested this Indian fund in United States' three per cents, which not yielding the six thousand dollars per annum they had been accustomed to receive, they became dissatisfied. Then it was that they were assured by the President that they should lose nothing by this last investment; but that the difference between the interest on the three per cents, and the six thousand dollars, would be made up to them by the Government. On this assurance the Indians were satisfied; and they continued to receive their six thousand dollars until the present administration came into office, when the President not conceiving himself authorized to pay more than the bare interest on the stock, and the Indians refusing to receive that sum, the subject was presented to the consideration of Congress. Under these circumstances, Mr. W. thought it would be expedient, as well as just, to grant the Indians' demands. It would be hard, he said, by refusing to pass the bill, to disturb the understanding they had so long held of the matter. They had always looked upon the transaction, by which the trusteeship was created, to be the transaction of the United States, and would feel themselves hardly dealt with if the Government, at this late period, took a different view of the subject. Whether the arrangement, when made, had been right or wrong, Mr. W. conceived that the United States were now placed in such a situation, that it became a moral obligation on them to fulfil the expectations of the Indians. As to any ultimate claim which the New Holland Company might make upon this fund, after the tribe became extinct, Mr. W. knew nothing of it. If this company should be found to be justly entitled to the money, they would receive it; if not, it would, of course, remain the property of the United States. After some further remarks, Mr. W. concluded, by expressing himself highly in favor of the objects of the bill, which he hoped would pass without the amendment.

Mr. FORSYTH said he had already consumed more of the time of the Senate on this subject, than he meant to have devoted to it. But, after what had been said, particularly by the gentleman from Kentucky, [Mr. BURN], in relation to a violation of the public faith, he felt bound to reply. It seemed to him that gentlemen took an incorrect view of the whole transaction. He could see no hardships in the matter. It was a mere question, whether we were to go on paying to these Indians an annuity, for which we receive no equivalent. We have received no bonds from them. The Government, if you please, acted as guardian for them, to prevent their being defrauded in their contract with Robert Morris. This was the simple state of the case, and it was impossible to read the original contract without so understanding it. The Government had not only paid to them all that it was bound to pay, but it had paid thirteen thousand dollars more than it was bound to pay. The only question, then, now is, shall we continue thus to pay them, and overpay them? Because a President of the United States had chosen to create a hope in the breasts of the Indians, that they should continue to receive a certain sum, was that a reason for the appropriation? Mr. F. said, suppose such a claim as this were set up by white people, instead of red ones, would any one contend that they should receive one cent over

the amount produced by their stock? No, sir, such a claim would not be sustained for a moment.

If any gentleman here, said Mr. F., can show the slightest obligation on the part of the Government to pay the Senecas one extra dollar, he would be content. But it is contended that they should receive the produce of their fund. So they should, but no more. But we are bound to pay them an interest of six per cent., says one. If we were debtors, the argument might hold good; but the Government are represented, from the same source, in the light of trustees. If the stock does not produce as much as they wish, the remedy must be found elsewhere than supplying the deficiency from the public coffers. One President has gone on thus to fulfil their expectations, and shall we continue to do so against all law, and every color of law? The amount of money was surely of no consequence whatever; he could heartily wish these poor creatures had it; but he could not vote it to them at the expense of principle, and violation of the constitution.

The question was then taken on indefinitely postponing the bill, and lost without a division.

The question then recurred on the motion of Mr. SMITH, of Maryland, to amend the bill by inserting a provision that the stock held for the benefit of the Indians be transferred to the United States.

Mr. SMITH, of Maryland, said that the effect of the amendment was simply this: that the three per cent. stock, now held for the benefit of the Indians, should become the property of the United States; while we bind ourselves, said he, to pay to them, in perpetuity, the annual sum of six thousand dollars. It was precisely on the principle of a tontine. The stock would be transferred to the United States, and the Indians would receive annually their six thousand dollars. They never could get more. The President, Mr. S. thought, had done right in laying the subject before Congress. Mr. S. could not conceive how the former President of the United States could feel himself authorized to give six thousand dollars per annum in lieu of three thousand one hundred and eighty dollars, the interest on the stock; but he did not care about the money; he believed it had been done with a benevolent motive, and he was glad that the Indians got the money. He wished to get rid of the business at once; and he believed that, if his amendment prevailed, it would be the most advantageous arrangement, both for the United States and the Indians.

Mr. WHITE said, from documents which he had examined, it appeared that, when this tribe of Indians became extinct, a claim would be set up by the Holland Land Company to this sum of one hundred thousand dollars; and the disposal which we are now about to make of that stock, as contemplated by the amendment of the gentleman from Maryland, [Mr. SMITH], might not prove acceptable to that company, should their claim prove a valid one. Mr. W. thought the amendment would only embarrass the subject. Should the Seneca nation become extinct, we then have the stock in our hands, ready for such disposal as justice may demand. He conceived the Government to be placed somewhat in the situation of a trustee who had violated his trust, and was compelled to render an account, with legal interest. He thought it was far better that we should pay the Indians much more than their actual due, than that we should wrong them out of one cent. From these considerations, he preferred the bill in its present shape.

Mr. SMITH, of Maryland, said he certainly could not vote for the bill in its original shape, though, if the amendment prevailed, it would meet with his hearty concurrence. With respect to any claim the Holland Company might hereafter make, it made not one doct of difference as to the present legislation of Congress. If that company came forward with any claim after the extinction of the tribe, its validity must be decided on by the Supreme Court;



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and, if decided in their favor, it mattered not whether they were paid in stock or money.

Mr. SANFORD said, he believed the proposition of the gentleman from Maryland [Mr. SMITH] did not essentially vary the nature of the bill; but, as it had passed the other House in its present shape, he did not wish to see it retarded or embarrassed. He asked, what is this three per cent. stock? A debt that we owe. To whom? To ourselves. It is created with one hand, and paid with the other. He considered the amendment of no manner of importance; and he repeated the hope that it would not be made to embarrass the bill in its progress through the necessary stages of legislation.

Mr. SMITH, of Maryland, replied, that it was a matter of great importance. It was important, if the United States granted these Indians a perpetual annuity, that they should get something for it. If we give them, said he, the perpetuity of six thousand dollars, and the stock is transferred to us, we get something for it; otherwise, we get nothing.

The question was then taken on the first amendment, and it was rejected without a division.

The question was then taken on the second, a verbal amendment, "that the annuity shall be paid out of any moneys in the treasury not otherwise appropriated," and carried.

The bill was then ordered to be read a third time, by the following vote:

YEAS.—Messrs. Barnard, Barton, Bell, Benton, Bibb, Burnet, Chase, Clayton, Dickerson, Dudley, Ellis, Foot, Hendricks, Holmes, Johnston, Kane, Knight, Livingston, McKinley, Marks, Naudain, Noble, Robbins, Robinson, Ruggles, Sanford, Seymour, Silsbee, Sprague, Troup, White, Willey, and Woodbury—33.

NAYS.—Messrs. Brown, Forsyth, Iredell, King, Poin-dexter, Smith, of Md., Smith, of S. C., Tazewell, and Tyler—9.

The remainder of this day's sitting was consumed in Executive business.

FRIDAY, FEBRUARY 4.

#### PAY OF MEMBERS OF CONGRESS.

Mr. MCKINLEY, from the Judiciary Committee, to whom was referred the joint resolution relative to the pay of members of Congress, passed by the House of Representatives; reported: "That the resolution does not appear to be designed to regulate the compensation of members of Congress, but to create such penalties for neglect of duty as will ensure their attendance in the respective Houses, and to compel an amendment of the rules of each House so as to effect this object. All legislative powers granted by the constitution, are vested in a Congress of the United States, which shall consist of a Senate and House of Representatives; and each House is separately clothed with ample power to preserve its dignity and integrity, and to regulate its own conduct. By the fifth section of the constitution, it is declared that each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide. Thus is the power of compelling the attendance of absent members conferred separately and exclusively on each House, and ought not, as the committee believe, to be exercised jointly by both. Nor is it believed to be necessary to resort to the joint power of the two Houses, to make or amend the rules by which this object is to be attained: because, in the same section of the constitution, power is given to each House to determine the rules of its own proceedings, punish its own members for disor-

derly behavior, and, with the concurrence of two-thirds, expel a member. Whenever, therefore, it shall be deemed necessary by either House to exert the extraordinary power proposed in the resolution, it is under no necessity to resort to the other for aid to carry it into effect; and it is proper that it should be so: for it may be necessary and proper for one House to exercise this power, when it is wholly unnecessary in the other. The committee, not being informed of any necessity for its exercise by the Senate at present, and believing that when that necessity shall arise, it ought not to be exercised jointly with the other House, recommend that the resolution be rejected."

The report was ordered to be printed.

#### POST OFFICE DEPARTMENT.

Mr. GRUNDY called up the resolution which he had submitted the day before yesterday, declaring the sense of the Senate, that the committee appointed to examine the present condition of the Post Office Department, were not authorized to call before them as witnesses the persons who had been removed from office by that Department, for the purpose of testifying as to the causes of their removal.

Mr. G. said he should not have troubled the Senate on this subject, if a real difficulty and serious difference of opinion had not arisen in the committee. He quoted the journal of the proceedings of the committee, from which it appeared that Mr. Abraham Bradley had been called before them; that Mr. HOLMES had proposed to interrogate him as to the causes of his removal from the office of Assistant Postmaster General; that, Mr. GRUNDY had objected to the question; and that on taking the vote of the committee, whether it should be answered or not, Mr. CLAYTON and Mr. HOLMES voted in the affirmative, and Mr. GRUNDY and Mr. WOODBURY in the negative: Mr. HENDRICKS, wishing further time for consideration, did not vote; and the committee adjourned. Mr. G. remarked, that, upon being informed by the Senator who had not voted in the committee, that he should vote differently from him, [Mr. GRUNDY,] he felt it his duty to appeal to the Senate for its decision. He had stated to the committee that he would not submit to the course proposed by the gentleman from Maine, should a majority of the committee so determine, without first having the direction of the Senate. Therefore, having the opinion of the gentleman from Indiana, [Mr. HENDRICKS,] he had no alternative but either to submit to what he considered a very incorrect and unprecedented course of proceeding, or to offer the resolution under consideration. If the Senate should decide against him, he could not say he would proceed cheerfully in discharge of the duty enjoined, but he would perform it diligently and faithfully. He also quoted from the journal of the committee other debated questions, which, from the votes on them, showed a great want of harmony in their proceedings. He considered the inquiry now under discussion as beyond the province of the Senate or the committee. This body had, at the last session, expressed its opinion on the power of the Executive to make removals, without assigning to the Senate the causes of them. He supposed the question had been settled. The cases then presented, were of a character more plausibly requiring the causes to be assigned. The right to demand the causes was alleged to be, that as the Senate was united with the Executive in the exercise of the appointing power, it should inquire into the reasons why an officer, whose appointment it had confirmed, had been displaced, in favor of the person whose nomination was then under consideration. This argument was overruled by the Senate's decision. And even this pretext, however plausible, does not exist in favor of the present inquiry.

If an examination is to be made into causes of removal, he conceived that more accurate information could be ob-

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tained from the person removing, than from the individual removed. Cases might exist, in which delicacy towards the individual removed would prevent his acquiring a knowledge of the causes that produced his removal. He did not believe this mode of proceeding calculated to secure justice in the result. The committee is to call before it the very men who have been exasperated at the head of this department on account of their dismissal, and, in the absence of that officer, they are to make their *ex parte* statements; and, without the advantage of a cross-examination, the committee is to make a report, decisive of the conduct and character of the Postmaster General; and the depositions thus taken are to furnish materials for partisan newspapers. He did not wish, as a Senator, to be thus employed.

It is true, the committee had sent an inquiry to the Postmaster General on this subject; this was contrary to his judgment. His opinion was, that the Senate possessed no constitutional power to make such inquiry. The Chief Magistrate and the heads of departments, by the constitution and laws, have the power conferred on them to appoint and remove the subordinate officers of the Executive branch of the Government. It is a matter confided to their discretion. If this discretionary power should be corruptly exercised, it would be the duty of the House of Representatives, the grand inquest of the nation, to institute an inquiry, collect the evidence, and bring the offender, by impeachment, before the Senate, in its judicial capacity. It would be unbecoming this body to be searching after impeachable matter, which, when obtained, could not be acted on until the House of Representatives should take up the subject, and prefer articles of impeachment. Besides, this kind of investigation would disqualify Senators from acting impartially, should a case be presented for a judicial trial. It would be impossible to prevent the minds of Senators from being influenced by these previous investigations. He also considered it undignified for this body, or its committee, to call on the Executive for the causes of removal, because, if obedience to the call should be refused, there is no constitutional power in this body to enforce it; and he viewed it unbecoming in the Senate to make a demand without the power to coerce a compliance.

He had said thus much on the general principle, without any special reference to this particular case. He had no apprehension that any portion of the conduct of the Postmaster General, if the whole were examined, would be found to merit censure. He considered this whole course of proceeding highly improper, and therefore asked the Senate to arrest it by the adoption of the resolution.

Mr. CLAYTON, (another member of the committee,) observed, he was not aware, until the resolution was submitted, that such a course as it proposed was contemplated; and he could not but express his surprise that it should have been resorted to without the knowledge of the committee, especially as they had not yet come to any decision on the subject-matter of the resolution. He considered the proposition objectionable, because it had the effect to elicit a partial history of the proceedings of the committee, before any regular report of those proceedings could be submitted to the Senate. But he was most surprised by it, because it was calculated to give the public very erroneous impressions respecting the conduct and great object of the inquiry. This resolution declared that the committee were not authorized to call before them the persons who have been dismissed from office, for the purpose of ascertaining the causes of their removal. From its tenor any gentleman would infer, that no member of the committee would have offered it, unless a disposition had been evinced by them to call before them a great number, if not all, of the persons who had been removed from office by Mr. Barry, numerous as the cases were, to sift

out the causes of such removals. But nothing of this kind had ever been contemplated by the committee. He would take the opportunity, though he regretted to find himself compelled to do so at this time, to give a brief statement of the facts as they had really occurred in the committee, in justice to those who were entrusted with the inquiry. He should do this with reluctance, because it would have been far better to have suffered them to have spoken for themselves through a report, as to all their proceedings; but as the gentleman who had taken on himself to introduce the matter, had voluntarily disclosed a partial history of these transactions, and had reprobated the course pursued by some of his colleagues in strong language, he should feel it his duty, in the course of his remarks, to place those transactions before the Senate in a proper light, to illustrate the true state of the question pending before the committee, and to show whose conduct, in the language of that gentleman, was "either becoming," or "calculated to make improper impressions."

In his opinion, the proposition contained in the resolution was to repeal the power delegated to the committee by the former resolution, under which they were organized. But the gentleman who offered it, from some of his remarks, seemed to contend that its object was only to explain and construe that power. In its terms, the resolution was only declaratory—in substance, its design was, and its effects would be, to repeal an existing power, to smother inquiry, and baffle investigation. If it declared what was erroneous in this respect, as he should attempt to show before he sat down, the Senate could not adopt it.

It would seem, from this proposition, that great stress had been laid by the committee on the causes of the removals, to which it referred. The resolution seemed to carry with it the idea that this had been a principal, if not the sole object of the investigation. Insinuations of this character had been dropped elsewhere, by those who knew best, and felt most deeply, how much a scrutiny into the causes of these removals was to be dreaded. But this was not the only important object which he had in view, when he introduced the original resolution to appoint the committee. In explanation of his own object in submitting that resolution, he observed, that its aim and end were to inquire into the fiscal concerns of the department, and to ascertain, if possible, the true cause of their decline. He had seen that, under the administration of the predecessor of the present Postmaster General, the finances of the department were in a most flourishing condition; that by the report of the Committee on Retrenchment, in the other House, in 1828, it appeared that, under his able superintendence, its funds had been brought up from an annual deficit of 58,000 dollars, to yield a clear revenue of 100,312 dollars, after defraying all the expenses of mail transportation, and all the incidental expenses of the department. The department produced, at the period of that report, an excess of revenue more than sufficient to defray all the burdens arising from clerk hire, the salaries of its officers, and its contingent expenses; although, according to established usage, appropriations for those purposes were annually made from the treasury. The department then bore its own weight, paid its own way, and never made a demand on the treasury, to enable it to establish new post routes, when the exigencies of the country demanded them. This was what the people expected, and had a right to demand from it; and, until the present administration came into power, they had never been disappointed in their expectations under any Postmaster General.

Indeed, the predecessors of the present incumbent had actually paid into the treasury of this nation upwards of one million one hundred thousand dollars; and, in reply to an interrogatory put to him by the Committee on the Post Office and Post Roads, in the other House, at the last

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session, Mr. Barry himself admitted that "there had not, at any time, been drawn, by the department, any money from the treasury, which it had deposited there. All the expenses of transportation, and others incident to the department, had been defrayed by its own resources, without any appropriation, at any time, to meet them, from the treasury." At the commencement of the present session, it might be seen that its concerns were in a very different situation. By the reports of the head of the department, it appeared that, from the 1st July, 1828, to the 1st July, 1829, there had been an excess of expenditure, beyond the revenue, of \$74,714, and an additional excess of expenditure, beyond the revenue for the ensuing year, of \$82,124. The expenditures of the year ending the 1st of July, 1830, exceeded even those of the preceding year, by the enormous sum of 150,674 dollars. The available funds of the department, in the first fifteen months of the present administration, suffered an abstraction of 114,000 dollars. The sums drawn from the treasury to pay the salaries of officers, and the contingent expenses, also exceeded any ever drawn before. In 1824, the whole amount of appropriations for these purposes was 38,350 dollars. In 1830, it was 61,290 dollars; and the appropriation demanded for the present year is the same. It was, therefore, evident, that if the department had not leaned on the treasury for support, it would already have nearly exhausted its available funds, accumulated during preceding administrations, and amounting, as the Postmaster General had stated them, on the 1st of July, 1829, to 230,000 dollars. And, without considering the appropriations from the treasury, it must be evident to every man who reflected on this subject, that unless some change should be made in the administration of its affairs, this department would soon reach the period of its insolvency. Such were the considerations which had induced him to propose the inquiry. There were others, as little connected with the subject of removals as these, which had impelled him to submit the proposition. He had seen, that, during the last session of Congress, a Senator from Ohio [Mr. BUNNET] had introduced a resolution, calling for information in relation to the mail contracts. There were, at that time, allegations of gross abuses in regard to these contracts, which had since swelled into direct charges of corruption, in preferring higher to lower bidders, and granting extra allowances to political favorites. The resolution of the Senator of Ohio, after having remained on the table several days, was amended, as was supposed, at the suggestion of the Postmaster General himself, (if wrong in this supposition, he wished to be corrected,) and was adopted in the shape in which it appeared on the journal of the last session. The amendments might there be traced in italics; and the first of these was one postponing the information required, "till an early period of the next session." In this shape, that resolution was adopted. That next session had arrived, yet had no answer whatever been given to this call. Nearly a year had passed away, yet, neither respect for the Senate, nor a sense of duty, had yet produced a line of reply. Was the labor great? If so, was not the time allowed sufficient to enable the department, with the aid of the new clerks employed there, to answer it fully?

It was with a view to gain such information as this, and to learn the actual causes of the decline in the fiscal concerns of this department, that the investigation was commenced. Rumor had assigned, as one of these causes, the removal, for opinion's sake, of hundreds of experienced and faithful postmasters, and other officers of the department, and the substitution of ignorant and brawling partisans, who had exhibited no other proof of capacity than their having voted for the present Chief Magistrate. The resolution gave the committee full latitude of inquiry to ascertain this or any other cause of abuse. It directed them to inquire and report "in what manner the laws

regulating the department were administered." The Postmaster General exercised the right to remove an officer by virtue of some law, or he had no right to remove. How he had administered this law, then, it was the duty of the committee to examine and report. Would the gentleman from Tennessee, who said we had no such power under the resolution, tell us why this clause did not absolutely enjoin this inquiry as a duty upon us? Another part of it directed the committee "to examine and report the entire management of the Post Office Department." Was the matter of removing a thousand officers no part of the management of the department? It appeared rather that this had been the chief business of the department. Another clause of the resolution directed the committee to examine and report whether further and what legal provisions were necessary to secure the proper administration of its affairs. It would be recollected that, in 1826, the celebrated committee on Executive patronage, in this body, reported a bill making provision to prevent this very abuse of removals in the Post Office, and actually transferring the whole power of appointment and removal from the Postmaster General to the President and Senate. Perhaps the Senator from New Hampshire, [Mr. WOODBURY,] who was a member of the present committee, had also been a member of that committee, and probably approved of the principles of the report, and would now vindicate the measure of making legal provision on the subject. If there could exist a period when such legal provision was necessary, it now existed; and the power to make inquiry into the propriety of such a measure, clearly delegated by the resolution, necessarily involved the power and the duty to inquire whether the removals had been improperly made.

Such were the spirit and the letter of the commission under which the inquiry commenced. The committee met, and propounded, after considerable deliberation, nine interrogatories to the Postmaster General, which were delivered to him on the 24th of December last, and to which he had as yet given no answer. On the 17th of January, three other interrogatories were proposed by them, and sent to him. Among the last, was one inquiry: "What postmasters have been removed since you came into office, and for what causes? Please to give their names, places of residence at the time of removal, and the causes of their removal, classifying the cause for brevity's sake." This interrogatory, as originally proposed in committee by the Senator from Maine, [Mr. HOLMES,] inquired the causes of the removal of each of the discarded postmasters, but was amended by the votes of the Senators from Tennessee, New Hampshire, and Indiana, who shaped the interrogatory as it was actually sent to the Postmaster General. Thus, this officer was left at liberty to state the causes of removal generally, or to state them particularly in such cases as he might select; and this he might do in as strong language as he pleased, to bear him out in making these removals. And would any man, with a feeling of justice in his bosom, after giving the Postmaster General this latitude to accuse and blacken the victims of his proscription, refuse to them the right of stating the causes of their removal, if they should choose to do so? The files of the department might be filled with groundless accusations against them, which posterity might bring to light when they might be laid in their graves. Might they not now, if they could learn the nature of those charges, be permitted to refute them, and to place that refutation on the same record that should present the imputations against them? Yet the gentleman from Tennessee complained; that to allow them to testify would be to admit *ex parte* evidence.

After these interrogatories had been delivered to the chief of this department, another, relating to a single point, had been sent to him by order of the committee on the 28th of January; and, as nothing had yet been re-

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ceived from him, a request had been added, to know of him within what time an answer might be expected. Two communications were then received from him in reply to the last letter of the committee; the one acknowledging the receipt of their letters of the 17th and 28th of January, stating that the department was laboriously employed in answering the inquiries, and would reply when it was ready; the other answering the last interrogatory of the committee. The receipt of the most important communication, that of the 24th December, had not yet been acknowledged. In the mean time, specific charges of corruption and fraud, in certain mail contracts, having been distinctly preferred to the committee, with offers, on the part of respectable individuals, to sustain the charges on oath, it had been unanimously agreed to apply for power to send for persons and papers. The power was granted by the Senate. But when the committee met, the gentleman from Tennessee objected to its exercise in the very case which had caused them to ask for the power, insisting that inquiry ought first to be made of the Postmaster General, whether he was not in possession of sufficient affidavits and correspondence to make out the case against himself, and that it would be time enough to send for the persons when it should be found that the charges could not be established by a reference to his own records. In this ingenious view of the subject, that gentleman was supported by the Senators from New Hampshire and Indiana, a majority of the committee. He did not hesitate to say, that, from that moment, he, as well as the Senator from Maine, considered that the great object of the investigation was substantially defeated. An effort, however, was made to examine Abraham Bradley, the late First Assistant Postmaster General. He was sent for, and attended the committee. Mr. C. then read from the journals of the committee—"Mr. Woodbury objected to this witness being sworn, unless Mr. Holmes would first state his object in desiring to have him examined. Mr. Holmes asked the witness how long he had been Assistant Postmaster General, and what were the duties assigned him in the department? Mr. Holmes objected to giving any further explanation of the object of his question, than the question itself conveyed; and insisted on his right to have the witness examined. It was then decided that the witness should be sworn, and answer this question, Mr. Holmes, Mr. Hendricks, and Mr. Clayton voting for it, and Mr. Grundy and Mr. Woodbury against it. Mr. Bradley was then sworn by the chairman, and answered the question, when Mr. Holmes propounded another question: Were you removed from your office, and when, and, if you know, for what cause or causes? Mr. Grundy objected to this question; and Mr. Hendricks, to give himself time, as he said, to examine the resolution, moved to adjourn. Mr. Grundy, Mr. Hendricks, and Mr. Woodbury voted for the adjournment, and Mr. Holmes and Mr. Clayton against it." Thus, continued Mr. C., this question had been proposed by his friend from Maine to a single witness; and, before the committee had even decided upon it, the gentleman from Tennessee had offered this resolution to the Senate. It appeared to him, that the gentleman from Tennessee thought that the committee should never dare to ask information from any other source than the Postmaster General himself. To prove this, if proof were yet necessary, he referred to the journal of the proceedings of the committee of this morning. A resolution was offered to request Joseph W. Hand, solicitor of the department, to attend with the book, showing balances of accounts had been collected, and to give information as to the actual state of the available funds; when the gentleman from Tennessee objected to the resolution, and moved to dispense with Mr. Hand's testimony, and to call on the Postmaster General on the subject; and being supported in this by the gentleman from New Hampshire, the testimony was refused. The

importance of ascertaining the true nature of those funds was unquestionable. The bill pending in the other House to establish additional post routes, had been arrested on account of the supposed want of funds to defray their expense. The public demand for these routes, as manifested by the daily petitions presented here, demonstrate the interest which this question had excited; and the honorable Senator from Tennessee must labor under some manifest delusion, in supposing that such an inquiry should be confined to the Postmaster General.

That gentleman seemed to suppose that a dismissed officer was incompetent to testify, merely because he had been dismissed. The witness [Mr. Bradley] who was brought before the committee, had served his country with great honor to himself for about thirty years. He had grown up in this department, was thoroughly conversant with all its concerns, and had through life sustained an irreproachable character. The breath of proscription could not taint it. The shafts of calumny would fall harmlessly before it. And if the testimony of such men be incompetent, to whom should we go for information? To the clerks and officers of the department alone? Were they more worthy of credit than the man who had been driven out of office for a manly exercise of the right of opinion? Were those alone worthy of confidence who had learned to

"Crook the pregnant hinges of the knee,  
Where thrift may follow fawning?"

There were, doubtless, many high-minded and honorable men holding office under the department. But would you compel them to appear to give evidence against it, when you know, from the persecuting and proscriptive temper evinced by it, that, for any material disclosure of abuses, they would probably fall the victims of their own integrity in less than twenty-four hours? Perhaps not a few of these men, with their families, were dependent upon their offices for bread. They had learned no other means of living. And, for one, he did not hesitate to say, that he would rather forgo the whole investigation, important as he verily deemed it, than to compel one of them to do an act which, however pure in its motive, or honorable in its performance, might cause him to be deprived of his means of living.

It would be seen, then, that while the committee were thus trammelled by a refusal to suffer them to inquire into abuses from any person who might have been dismissed from office, these abuses must pass without exposure. The whole object of the inquiry might be frustrated. This department, which, by the report of the late Postmaster General, for the year 1827, contained not less than twenty-six thousand officers and agents of every description, among whom there were more than eight thousand four hundred postmasters, and more than two thousand mail contractors, could of itself form an executive army, ready to march at any time, at the word of its political chief, and storm any position which he might order to be carried, however sacred in our civil institutions, and though in our souls' just estimation prized above all price. But it would remain to be seen whether this determination to hide the light would satisfy the people! They were awake to the importance of this inquiry. They felt that the exigencies of the country, now demanding the establishment of so many new post-routes, and now, for the first time in the history of this department, demanding them in vain, called loudly for some radical change in the management of its affairs. They had read, as he had, with astonishment, the report of its chief to the Committee on the Post Office and Post Roads of the other House at the last session, in which he declared that "it must be obvious, that, without any considerable improvement in the mail facilities for at least three years to come, it would be difficult to make the department sustain itself in its present operations, without any increase of the num-

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ber of mail routes." And, seeing these things, he said to the gentleman from Tennessee, let no friend of the department, or its chief, lay the flattering unction to his soul, that, by suppressing this investigation, either directly or indirectly, they can escape the consequences which invariably flow from attempts to conceal the true state of their affairs from an intelligent public.

Mr. WOODBURY, (also a member of the committee,) said, that the question involved in the resolution stood forth singly, naked, and, as he believed, virtually adjudicated by the Senate at the last session. He never anticipated that all the concerns of the Post Office Department, and all the proceedings of the select committee, would be drawn into its discussion. But the course just pursued by the honorable chairman left no alternative but assent to his allegations, or a reply. In relation to the personal imputation, that a portion of the committee had attempted to exclude light, or to baffle inquiry, he would boldly appeal to every other member of the committee for its contradiction. Every proposition for information had been met and examined with promptitude, and sanctioned, whenever a majority of the committee deemed it to be embraced within the reference, and presented in a shape best calculated to elicit the truth. The proceedings of the committee on the very subject of the present resolution—the causes of the removal of officers—furnished a very striking illustration on this topic.

An interrogatory was, at an early moment, offered by the chairman, addressed to the Postmaster General, asking for the causes of removal in each case since his connexion with the department. This interrogatory was believed by a majority of the committee, as he supposed, improper, after the repeated decisions of the Senate last session against similar inquiries; and it was further thought to be derogatory and unjust to give publication and notoriety to all the charges on file against five or six hundred individuals. The proposition was, therefore, amended, and the causes of removal left to be stated in general terms, without any personal application. This was settled as a question of power and propriety, and not with the least view, in any body, of escaping from any legitimate inquiry.

But, to show the spirit and temper prompting that interrogatory, rather than those opposed to it, after the lapse of many days, and after power was obtained to send for persons and papers, in the examination of another subject, a question to a witness, involving the same principle as to the causes of removal, was again renewed; and a majority deciding in its favor, the minority were compelled to acquiesce, or, by this resolution, obtain the opinion of the Senate against the inquiry. Was not this correct and parliamentary on the part of the minority? Ought they first to have asked leave of the majority opposed to them? And was it not proper for the Senate to construe their own reference, and even to amend or discharge it entirely, if expedient? The reference was the act of the Senate. To the Senate the committee were amenable. The Senate had their allegiance; could control all their movements; and to their decision, whether for or against the resolution, he, for one, should bow with all due deference. He would sit and examine, early and late, in session and out of session, if so directed.

Having thus offered the vindication of the minority for presenting this resolution to this body, the main, and indeed only proper question recurred: Ought the committee to be limited or not in their investigation of the causes of removal from office? He should not now argue what had been so fully argued here only at the last session—both the uselessness and inexpediency, if not the encroachment on constitutional principles, of such an inquiry by this body. He supposed that the Senate was not now disposed to cross its own path on this subject. What would it lead to in the present instance, were the committee to

go into the causes of each of the five or six hundred cases; to send for the person of each removed officer to obtain evidence, and to summon even third persons, without number, for explanation and support of either side? He could not see the utility, any more than the end, of such an investigation. But there might, he admitted, be some benefit in our legislation by knowing the general causes which influenced any department in its removals.

The chairman was in error in supposing that he had been a member of the Committee on Executive Patronage, who had made the report referred to by that honorable Senator. He was a member of a subsequent committee on that subject, and approved most of the principles in the report of the first one; and, therefore, would regulate, at all times, when practicable, the influence of the Post Office Department, or any other Department, by additional laws, where laws could reach the evil, and where he had ascertained that the general grounds of removals, or of other proceedings in the department, were such as to injure or to endanger the public interests. Hence, he had not objected now to ask the general grounds of removal in that department, or to investigate, to the fullest extent, its fiscal operations. These operations were conceded to have been the chief object of the original reference. It was with a view to them that the power to send for persons and papers had been voted for by him: but now, when that power was attempted to be turned to a different, and, as he believed, improper inquiry, it was high time, in his opinion, to ask the direction of the Senate.

He regretted that the member from Delaware had deemed it relevant, on the resolution now under consideration, to discuss at all the comparative condition of the fiscal concerns of that department, under its present and under its former administration. He stood not here as the mere apologist or eulogist of any man. But the course of the honorable chairman demanded a brief reply; and without any invidious contrast between the heads of that department, at different periods, he would endeavor to satisfy the Senate, in a very few words, that the minority of the committee had shown no unwillingness to probe to the quick the pecuniary affairs of the department at any period of time, and that, so far as these affairs were accurately known, their present condition was highly creditable to the great public objects of the creation of the department, and to its general fiscal administration for the last two years.

The first eight interrogatories proposed to the department by the chairman, in the committee, so far as they related to its funds, had been adopted without a dissenting vote. The extraordinary power to send for persons and papers with a view to the same object, had also been asked for, without opposition, in the committee. The minority had been as anxious as the majority to obtain the truth, the whole truth, and nothing but the truth. And when a call on subordinate clerks had been proposed, it had been merely changed into one to the head of the department, as more decorous in the first instance, and as the only proper call until the head should decline or neglect to answer. No such neglect had yet occurred. Calls made at the last session, involving an unprecedented degree of labor, had precedence, and had put in requisition all the force of the department which could be spared from its current business; calls, one of which, alone, he had no doubt, from its character, would present an answer filling, if printed, a thick octavo volume. He had so advertised the committee, when some of their own troublesome interrogatories had been propounded; and it would be oppressive to ask of the department to make brick without straw. The minority, therefore, to avoid delay, had expressed a willingness and wish to examine the books of the department without so much copying, and had stood ready at all times to proceed, and make the appropriate examination. The Senate would thus judge how far any imputation was



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deserved by any of the committee, of a desire to shut out light, or to check or delay suitable inquiries in relation to the funds of the department.

One word as to the comparative state of these funds. The chairman, (how impartially the Senate must decide,) began by saying, that if the salaries of the officers of the department, and the repairs of its buildings, were charged to it, it would be found much in arrear, if not insolvent. But is it pretended that those salaries and repairs have ever been charged to it under former administrations? Again, it was alleged that the expenditures now exceeded the receipts, and that some of its operations, without relief from Congress, would become entirely palsied. But he contended that, on an examination of dates and figures, and considering the effect of our own new laws on the fiscal concerns of the department, it was at this moment more effectually answering the object of public accommodation in the rapid and safe transportation of the mail, than at any former period of the Government; and that so far from needing appropriations from Congress to prevent its bankruptcy, it only asked the forbearance of Congress on its new, numerous, and burdensome routes.

How stood the facts? In May, 1828, you passed a law establishing from two hundred to two hundred and fifty new post routes. Here they were; and any gentleman who chose to read those in his own section of country, would be satisfied, as he would from the nature and history of the establishment, that many of those new routes were not only expensive in the first instance, but exceedingly burdensome afterwards, by the income falling short of the annual cash.

What was the consequence? In the year ending July, 1828, while few or none of the new routes had been put into operation, and while the department was entirely in other hands, the balance against the department was 25,000 dollars. He should use round numbers. He had no doubt that this deficit happened, not from any misconduct in the then head of the department, but from the same kind of causes which had properly operated since—a desire to extend the accommodations of the mail to the utmost extent the finances of the department would admit.

In the year ending July, 1829, only two or three months of which were under the administration of the present head, the balance increased to 74,000 dollars. Many of the new routes had, doubtless, in the mean time, been put into operation at a large expense, and not, it is presumed, though then, as well as now, open to the imputation of happening from profligacy and fraud.

In the year ending July, 1830, the balance was 82,000 dollars. How? By corruption and extravagance? No, sir. This balance was created by expenditures under the last, and under former laws, which the public interests demanded, and which can be seen in detail in our own documents of the present session. By these, it appears that, in the last year, still more new routes had been put into operation, or old ones extended, so as to carry the mail on horseback thirty-one thousand miles further than at any former period. Routes had also been extended, expedited, and improved, for the safety of the mail, so that it was conveyed in carriages one hundred and eighteen thousand miles more than in any former year. Yet the chairman talked as if nothing short of the grossest corruption and waste had produced an increased expenditure.

But look a step further. If this imputed waste and corruption actually existed, not only would the mail not be transported in such increased distances, and in such improved ways, but the whole amount of income would be stationary or diminished; whereas, in truth, the receipts of the department exceeded the last year what they were in 1828, the last full year of the past administration, nearly 300,000 dollars.

Had the funds been squandered, then, to the winds and waves, or faithfully collected? Had the increased expen-

ditures been made on the same labor performed, or on the increased and improved transportation of the mail for so many thousand miles further.

Look to your documents also for an answer to the charge that the department is bankrupt, and that the aid of Congress is invoked and is necessary to avert impending ruin. Did the Postmaster General say this? No, sir. So far from all that, the debts in arrear due to the Post Office, meet thus far more than all the annual balances against it; and the Postmaster General had officially informed us, since the commencement of this very session, that, as the contracts for the next four years had been renewed, and in a way to save the department, annually, over 72,000 dollars, and as the increase of postage is progressive, there is "a foundation for the belief which has been expressed, that the current revenue of the department for the succeeding year, will be sufficient for its disbursements."

He impugned the motives of no gentleman who differed from him in opinion, either here or in the committee. Differences of opinion would honestly occur both in private and public life. But the Senate would now enjoy an opportunity to decide whether the course pursued by his friends and himself in the committee had been such as the courtesy due to official intercourse with the department required, and such as the true interests of the Government justified.

In fine, they would see whether any thing thus far had been developed in the condition of the General Post Office, so alarming, so very terrifying, as some gentlemen desired them to believe.

Mr. HOLMES said, if he were to consult his own individual wishes, he should vote for this resolution. Its object was to limit the inquiry directed by the Senate. The committee were to inquire into "the entire management" of the Post Office Department, and to this end they were empowered to send for persons and papers. The resolution under consideration proposed to prohibit the committee to ask a witness why he was removed from office by the Postmaster General. Now, said Mr. H., as I deem such an inquiry essential to the performance of the duty assigned me, the Senate, I know, would not, if they could, compel me to perform a duty in a manner which I conscientiously believe to be wrong. If, therefore, they should think proper to pass this resolution, I should ask to be excused from further service on the committee; the Senate would of course excuse me; and I should be thereby relieved from this troublesome business. But were I the particular, personal, and political friend of the Postmaster General, I should vote against this resolution. So far from being afraid of inquiring into the official conduct of my friend, I would court the strictest scrutiny. Let the witnesses be partial or impartial, an honest and faithful officer can never suffer by inquiry. Let him submit to the severest ordeal, let every thing be subjected to the strictest examination, and if he cannot stand, let him fall. These are no new doctrines with me—they have been the maxims of my whole political life. In a Government like ours, those who receive and disburse your public moneys, should be watched with a vigilant, and even a jealous eye. Here is the commission under which we are acting:

"Resolved, That a committee be appointed to examine and report the present condition of the Post Office Department; in what manner the laws regulating the department are administered; the distribution of labor, the number and the duties assigned to each; the number of agents, where and how employed; the compensation of contractors; and, generally, the entire management of the department; and whether further and what legal provisions be necessary to secure the proper administration of its affairs."

In proceeding under this broad commission, it became necessary to have power to send for persons and papers, and the committee unanimously agreed to ask for this authority, and the Senate as unanimously granted it. The



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committee had sent several interrogatories to the Postmaster General, of which this was one: "What Postmasters have been removed since you came into office, and for what causes? Please give the names and place of residence when removed, with the time and causes of their removal—classifying the causes for brevity's sake." This interrogatory was put by me, but not in its present shape. My inquiry was into the causes of removal of each; but the friends of the Postmaster General insisted upon a classification, which, whatever the intent, does in effect leave it in the power of the Postmaster General to evade the whole inquiry. Now, in this state of the case, and while this inquiry, thus modified, is before the Postmaster General, Mr. Bradley, a former Assistant Postmaster General, is summoned before the committee. The first question put by Mr. Holmes was this: "How long were you Assistant Postmaster General, and what were the duties assigned you in the department?" This question was objected to, unless the interrogator would first state to what examination it was intended to lead. The answer of course was that no such explanation would be given; none was necessary; for the interrogatory carried the intent upon the face of it. Even this mere preliminary question was seriously opposed in committee, and was at last permitted to be put to the witness by a majority of one only. Messrs. Clayton, Holmes, and Hendricks, in the affirmative; Messrs. Grundy and Woodbury in the negative. The next question, and which is the foundation of this extraordinary resolution, was this: "Were you removed from office; when; and, if you know, for what cause or causes?" During the discussion whether this question should be put, a motion was made by Mr. Hendricks to adjourn, and carried. Messrs. Grundy, Woodbury, and Hendricks in the affirmative; Messrs. Clayton and Holmes in the negative. In this predicament were we, (an inquiry of the Postmaster General into his causes of removal, a question to the late Assistant Postmaster General why he was removed, then pending,) and the Senator from Tennessee, without consulting the rest of the committee, asks the Senate to stop the inquiry—to forbid us to ask the question! Were the Senators from Tennessee and New Hampshire serious in their endeavors to obtain the causes of removal, when they united in inquiring of the Postmaster General himself, and do they object to an inquiry of the witness? None but the removing and removed are presumed to know the causes. You are forbidden to ask the officer removed, and are limited therefore to a general inquiry of the Postmaster General himself, the very officer whose conduct is the subject of investigation. This is a very easy way to let off a delinquent—he is not only a witness, but is the only witness in his own case. And we must not be too particular in our inquiries even of him. He is to classify, "for brevity's sake." If he chooses to smother the design, let him resort to generalization. And why are his friends so sensitive? If your officer is innocent, he can very safely answer any interrogatory, however particular. He is in no danger from any witness, however strong his prejudices. An honest and faithful officer should never have cause to fear investigation. Ours is a Government based entirely on responsibility, where the acts of every agent should be open to public inspection. All secrets are grounds of suspicion and jealousy, and especially when claimed by a subordinate officer.

The two questions which were put to Mr. Bradley, were manifestly preliminary. They, on the one hand, went to show the extent of his means of knowing the state of the department. He had held the office thirty years, and nearly the whole time had managed its fiscal concerns. Had he been removed by the present Postmaster General, and if so, for what cause? This, on the other, would show how far he might be prejudiced—presenting at once his knowledge and his bias. Who could have apprehended any danger from such questions? No friend of an in-

nocent man could have objected to the inquiry; and had an opposer of this administration done so, it would have been complained of as evidence of hostility.

But my principal object was, I admit, ulterior. It was to ascertain the causes of the unprecedented number of removals in this department. This, I know, is a tender subject. Neither the minions of power, nor the slaves of ambition, like very well to give reasons. Let motives be divulged, and tyranny would soon be banished the land. The post office, and the press, when free and unadulterated, are the efficient engines to demolish tyranny. To corrupt these, is the prime object of every aspirant to absolute power. Put into the hands of talents, combined with ambition, the press, the post office, and the purse, and you may talk of liberty—you may retain the shadow, but you will have lost the substance.

Thus far the committee have "made haste slowly." We have scarcely entered upon the threshold of inquiry, and now this resolution is offered, without the least notice to the committee—the object of which is to arrest the whole proceeding.

I shall not forejudge the case. I do not say that the Postmaster General has done right or wrong. This Senate has directed its committee to inquire, and has given it ample powers, and I, as one, do not feel at liberty to disobey. There is certainly a diminution of the funds of the department, indicating that it is insolvent, or verging to insolvency; and the Postmaster General has officially informed us, that, from the 4th March, 1829, to the 2d March, 1830, four hundred and ninety-one post officers had been removed, not including those in the department, or in the post office of this city.

This administration owes its existence to its professions of economy. The advocates of General Jackson told the people, what they were quite willing and very ready to believe, that the funds had been squandered, and that General Jackson was the very man to correct the abuses. It has been boldly asserted in this Senate, and gone out to the American people, that all this is a miserable pretext, and the whole affair is a mere system of "rewards and punishments." It appears, too, that more changes have been made in the post office than in any other department, and that this seems most in embarrassment. Things thus appearing, it is most extraordinarily proposed to stifle the inquiry which the Senate unanimously directed. We have heard much of "bargain and corruption," as well as of "economy." It may turn out that all this "bargain and corruption" has occurred under this administration. If any of it was employed in establishing the former, it has not been yet discovered. It was the general cry during the last canvass; and if any proofs can be adduced, they may be elicited by this inquiry.

The number and compensation of clerks in the department could not have been extravagant, unless we are deceived by appearances. We find the number has been greatly increased, and there is a petition now pending before us for additional pay. Though this does not, to be sure, look much like "retrenchment and reform," still it is possible that these additional expenditures may become necessary, from the increased duties of the department. But I should think that to displace experience, and substitute inexperience, would sufficiently account for it. It is impossible, if you remove the most experienced and faithful officers in a department so complex and ramified, that the business can be done so expeditiously or correctly. It is impossible that the men the most intelligent, practical, and faithful, can perform duties so well as those who have been trained and disciplined by long practice.

It is possible, though I cannot admit that it is probable, that all these six or seven hundred removals were for good cause. The late Postmaster General was a faithful and vigilant officer and a rigid disciplinarian. It would seem, at a first glance, that he could not have overlooked all

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these unworthy men, or that, if he knew them, he would have permitted them to remain. The friends of the present incumbent profess to respect the character and merits of the late Postmaster General, and we hope they are sincere; but surely it is a poor compliment to his talents or integrity to impute to him the employment of such a regiment of bad officers, either from ignorance or design. Sir, it is my *prima facie* opinion, that scarcely one in a hundred has been removed for sufficient cause; but still, if, upon inquiry, it should be otherwise, I will be the first to retract, and exonerate the Postmaster General from all proscription.

The Senator from Tennessee [MR. GRUNDY] thinks it a drudgery, a small business, to make this inquiry. He surely cannot mean this as a reflection upon the Senate for directing it. If the Postmaster General shall have prostituted his office for purposes of proscription, and shall have descended to an inquiry into the party preferences of every obscure deputy in the United States, for the purpose of fixing the seal of reprobation upon every one who would not sacrifice to this modern Moloch, is it humiliating to follow him, and expose him in his degrading occupation? No, sir; if an officer will descend to petty, contemptible persecutions, low as the business is, it is proper to ferret him out.

I cast no imputation upon the members of the committee who think differently. They probably believe themselves to be right, and we are satisfied that we are right; and thus the account is balanced between us.

For myself, I cannot indulge a doubt that this inquiry is not only legitimate, but necessary, and demanded by the American people.

Since the committee was appointed, not only have the public papers, but private letters from respectable individuals, urged on the inquiry. And just as we are commencing it with adequate power and authority, the whole is to be suppressed!

I hold in my hand a letter from a highly respectable Virginian to one of its Senators here, making high charges of corruption and fraud in mail contracts, and naming the witnesses to be called to prove them. It was my opinion, and that of the chairman, that the witnesses should be immediately summoned to testify. But a majority thought that we ought first to seek for evidence at the department, thus expecting that, if any thing was wrong, the Postmaster General would furnish the necessary evidence to convict himself. Now, if it be proper to inquire at all, why proceed in this circuitous way? When a respectable citizen alleges fraud, or that he believes it, and names the witnesses by whom he would prove it, why not send for them, when our powers are so ample? It seems to me that so cautious a procedure as this is to induce a premature suspicion of error or guilt.

The Postmaster General is in no danger of injustice by the inquiry into the causes of removal. If a man is removed for good cause, he would not be very forward to complain or to testify, when he would know that thereby his own demerits would be made manifest. If these removals have been made as a punishment for the exercise of the freedom of opinion, a remedy should be promptly provided. Sir, the people of the United States will never tamely suffer a department of such power and influence to become an engine which may one day batter down their liberties. Sir, the suppression of inquiry is among the new fashions introduced by this administration. Inquiry, hitherto, has been always popular; so much so, that a member would scarcely hazard his reputation in opposing it. No apprehension that we might meet with impeachable matter could deter us. Indeed, such an argument would have been ridiculed. The Select Committee of the Senate of 1826, on the subject of Executive patronage, were not so timid lest they should compromise their impartiality. They inquired into facts, as the foundation of le-

gislation; and although we found no instances where the power of removal had been abused, we deemed it safe to regulate and restrain it. The mischief which might befall us from Executive influence, by means of the post office and the press, were foretold in the spirit of prophecy. That report was drawn by the Senator from Missouri, [MR. BENTON,] and the facts embodied there are good proof that the committee were not then over scrupulous in their inquiry. The slavish doctrines of the present day would not now tolerate a report couched in such language, and breathing such a spirit. The committee proceed:

"The whole of this great power will centre in the President. The King of England is the 'fountain of honor;' the President of the United States is the source of patronage. He presides over the entire system of federal appointments, jobs, and contracts. He has 'power' over the 'support' of the individuals who administer the system. He makes and unmakes them. He chooses from the circle of his friends and supporters, and may dismiss them, and, upon all the principles of human action, will dismiss them, as often as they disappoint his expectations. His spirit will animate their actions in all the elections to State and Federal offices. There may be exceptions, but the truth of a general rule is proved by the exception. The intended check and control of the Senate, without new constitutional or statutory provisions, will cease to operate. Patronage will penetrate this body, subdue its capacity of resistance, chain it to the car of power, and enable the President to rule as easily, and much more securely, with than without the nominal check of the Senate. If the President was himself the officer of the people, elected by them, and responsible to them, there would be less danger from this concentration of all power in his hands; but it is the business of statesmen to act upon things as they are, and not as they would wish them to be. We must then look forward to the time when the public revenue will be doubled; when the civil and military officers of the Federal Government will be quadrupled; when its influence over individuals will be multiplied to an indefinite extent; when the nomination by the President can carry any man through the Senate, and his recommendation can carry any measure through the two Houses of Congress; when the principle of public action will be open and avowed—the President wants my vote, and I want his patronage; I will vote as he wishes, and he will give me the office I wish for. What will this be but the government of one man? and what is the government of one man but a monarchy? Names are nothing. The nature of a thing is in its substance, and the name of a thing soon accommodates itself to the substance. The first Roman Emperor was styled Emperor of the Republic, and the last French Emperor took the same title; and their respective countries were just as essentially monarchical before as after the assumption of these titles. It cannot be denied or dissembled but that this Federal Government gravitates to the same point, and that the election of the Executive by the Legislature quickens the pulsation."

"The committee must, then, take things as they are. Not being able to lay the axe to the root of the tree, they must go to pruning among the limbs and branches. Not being able to reform the constitution in the election of President, they must go to work upon his powers, and trim down these by statutory enactments, wherever it can be done by law, and with a just regard to the proper efficiency of the Government. For this purpose, they have reported the six bills which have been enumerated. They do not pretend to have exhausted the subject, but only to have seized a few of its prominent points. They have only touched in four places the vast and pervading system of Federal Executive patronage—the press, the post office, the armed force, and the appointing power. They are few compared to the whole number of points which the

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system presents, but they are points vital to the liberties of the country. The press is put foremost, because it is the moving power of human action; the post office is the handmaid of the press; the armed force its executor; and the appointing power the directress of the whole. If the appointing power was itself an emanation of the popular will, if the President was himself the officer and the organ of the people, there would be less danger in leaving to his will the sole direction of all these arbiters of human fate. But things must be taken as they are; statesmen must act for the country they live in, and not for the island of Utopia; they must act upon the state of facts in that country, and not upon the visions of fancy. In the country for which the committee act, the press, with some exceptions, the post office, the armed force, and the appointing power, are in the hands of the President, and the President himself is not in the hands of the people. The President may, and, in the current of human affairs, will, be against the people; and, in his hands, the arbiters of human fate must be against them also. This will not do. The possibility of it must be avoided. The safety of the people is the 'supreme law;' and, to ensure that safety, these arbiters of human fate must change position, and take post on the side of the people."

Sir, you can never legislate correctly without inquiring into the necessity. You should search deep, and ascertain the length, breadth, depth, and height of the mischief to be remedied. Both Houses of Parliament, by their committees, collect and embody the evidence on each subject as a foundation for legislation; and who ever heard it objected that they might find impeachable matter?

The Committee of the House of Representatives of 1818 had no scruples, no delicacy like that here manifested. They summoned not only the clerks, but the chiefs of the departments themselves. They used "the incision knife and the caustic," and searched the wound to the bottom. They did not stop at a summons; but, when that was disobeyed, they issued a *capias*, and brought in the witness by force. No one then complained of want of decorum. The Representatives of the people spoke, by their committee, and their voice was obeyed.

We do not find another case where a call of such magnitude was refused, and we ask the gentlemen on the other side to give us a single example. Strange doctrines, indeed, which cover your executive officers with such a panoply!

[Here Mr. GRUNDY requested Mr. HOLMES to suspend his remarks until to-morrow, as he had just understood that there was some executive business before the Senate, which it was indispensably necessary to act on to-day.]

Mr. HOLMES acquiesced in the suggestion; when,

On motion of Mr. TYLER, the Senate proceeded to the consideration of executive business, and spent half an hour within closed doors; and then adjourned until Monday.

MONDAY, FEBRUARY 7.

## POST OFFICE CONTRACTS.

A report was received from the Postmaster General, in obedience to a resolution of the Senate, giving a list of contracts made by that department, together with the number and compensation of clerks employed in that department.

[The documents consisted of copies of all contracts made by him or his predecessor, on which additional allowances had been made for additional services; copies of all contracts existing when his immediate predecessor came into office, on which similar allowances were made, and copies of all contracts made by his immediate predecessor, on which similar allowances had been made. The letter adds, "that the labor required for the investigation of each case, on more than seventeen hundred routes, and

making the statements, besides preparing copies of about fourteen hundred contracts, comprising together nearly six thousand large folio pages, has required the constant and diligent service of several clerks for about six months. The current business of the department has been delayed, so far as could be done without producing permanent loss; and, together with the new arrangements rendered necessary in answering the several calls for information from the committee instituted by the Senate on the 15th of December, it has not been practicable, with all the force that could be applied, to finish the report at an earlier period."]

Mr. GRUNDY moved that it be referred to the Committee on the Post Office and Post Roads, with a view to a selection of such parts as it would be proper to have printed. In its present shape it was too voluminous for printing. The gentleman from Ohio, [Mr. BURNET] who offered that resolution, calling for the information contained in the report, belonged to that committee, and it seemed proper that it should have that reference.

Mr. BURNET said he would not oppose the reference suggested by the gentleman from Tennessee, [Mr. GRUNDY,] but he had supposed the subject would be referred to the select committee on the present state of the Post Office Department.

Mr. GRUNDY remarked that his object was to refer the subject to the committee who had the least business before it. To himself it was totally immaterial, as he belonged to both of the committees proposed. The standing Post Office Committee were not overwhelmed with business, while the other was.

Mr. CLAYTON contended the report should be sent to the select committee, as that committee were now engaged in the investigation of this very subject; and he did not apprehend that there was any inquiry before the other committee which bore any relation to it. As for the selection of the documents which it would be proper to have printed, the select committee could do it as well as any other. He hoped the gentleman would withdraw his proposition, and allow the report to go to the select committee.

Mr. GRUNDY said he could not withdraw his motion. The gentleman from Ohio, who called for the report, belonged to the standing committee, and it was proper he should have an opportunity of acting upon it. Besides, it was useless to disguise another fact. The select committee had taken so wide a field for its investigations that the prospect of its soon terminating its labors was but a gloomy one. These committees met in the same room, and any information possessed by one could easily be communicated to the other.

The question was then taken on the first proposition to refer the report to the Committee on the Post Office and Post Roads, and decided in the affirmative—yeas 19, nays 18.

## NAVY OFFICERS.

Mr. BARNARD submitted the following resolution:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of increasing the pay and emoluments of Masters Commandant in the Navy of the United States; and, also, of allowing additional compensation to Lieutenants when acting as first Lieutenants of a ship of the line, frigate, or sloop of war, according to the rate of the vessel.

## DUTIES ON SUGAR.

Mr. BROWN, of North Carolina, introduced a bill to reduce the duty on imported sugar.

Mr. BROWN moved to refer the bill to the Committee on Commerce. The motion was rejected—yeas 16, nays 25.

On motion of Mr. JOHNSTON, of Louisiana, it was then referred to the Committee on Manufactures.

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*Duty on Salt.—James Monroe.—Post Office Investigation.*

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## DUTY ON SALT.

Mr. BENTON gave notice, that to-morrow he should ask leave to bring in a bill to abrogate the duty on salt.

## JAMES MONROE.

The bill for the adjustment of the claim of James Monroe, passed in the other House, was read a first time, and laid on the table until to-morrow, at the suggestion of Mr. POINDEXTER, who wished time to prepare an amendment to it.

## POST OFFICE INVESTIGATION.

The resolution of Mr. GRUNDY, declaring that the select committee, appointed to examine into the present condition of the Post Office Department, are not authorized to call witnesses who have been removed before them for the purpose of ascertaining the causes of their removal, being again taken up—

Mr. HOLMES rose, and resumed the remarks which he commenced when the subject was last under consideration. I confess, said Mr. H., that since our last adjournment, my surprise has been increased, rather than diminished, at the objection to the inquiry. What possible reason can there be why the Senate should not have an answer to this question—"for what cause or causes were you removed from office?" It cannot arise from a sympathy for the witness. If the answer would criminate him, he has a right to withhold it. The question is, nevertheless, proper, whether he can exculpate or is willing to criminate himself, or refuses to answer at all. In every judicial tribunal, a question which may possibly, or will probably, criminate the witness, is always proper, but the obligation to answer is another affair.

But here the witness does not object, but is willing to answer. Every obstacle in regard to the witness is, therefore, removed. Why, then, is this merely preliminary question to be refused?

Is the Postmaster General afraid of the answer? Has he been consulted, and does he think it most prudent to object? If so, there is strong ground to suspect him. What high-minded, honorable, and honest man would fear an answer to such a question? Is he afraid or ashamed that the people of the United States should know the principles by which he acts?

Is this objection without his consent? If so, it is surely using him unfairly; and, if it came from a political foe, might be just ground of complaint. But public opinion will, at any rate, scribe this reluctance at inquiry to him. The resolution to trammel the inquiry comes from his personal and political friends, and it will be believed that it is by his consent, and at his request. Why, it will be inquired, do you suppress an answer to such a question? If this officer removed does not, in his answer, give the true cause, cannot you? Do you fear his perjury? You have the means to answer and detect him. Do you fear his truth? That is just what we want. A witness who has been Assistant Postmaster General thirty years, and against whom no official misconduct has been alleged, is not to be lightly esteemed. His testimony would be believed quite as soon as that of the Postmaster General himself.

I remember that an officer, a friend of mine, of high respectability, was accused of misconduct, and the charges were grave and serious. They were made to President Monroe at the close of his administration, and he left them to his successor. I expressed to Mr. Adams a strong belief of the innocence of my friend, and insisted that at least he ought to be heard in his own defence. To this request in his behalf the President assented—a commission was instituted to hear the parties and evidence. On my return home, I informed my friend that an inquiry was directed, at my request, at which he seemed dissatisfied, and to think it was unnecessary. From that time I began to suspect, and to regret that I had spoken so confidently to the

President of his innocence. A full examination was had, the guilt proved, and the officer removed. I state this case, sir, to show that any apparent reluctance of the Postmaster General to submit to this examination, or any disposition to limit or restrict it, will be ground of suspicion against him before the American people.

But, say gentlemen, we are prejudging a case which we may be called to try as a high court of impeachment. We answer—our duties are legislative, executive, and judicial; and shall we refuse to perform one class of these duties, because it may conflict with the others? If we are never to perform legislation, lest by possibility we should meet with impeachable matter, there are few cases where we can act at all. In all this, however, our course is a very plain one. The framers of the constitution supposed the cases of impeachment would rarely occur, and they judged correctly. It was never expected or intended that this power should in the least control or restrain our legislative duties. In the course of inquiry into facts or conduct as a basis of legislation, we are never to anticipate high misdemeanors or impeachable matter; and it is the same with our executive duties. Suppose a district judge, while under impeachment in the other House, should be nominated to the Senate for a justice of the Supreme Court, must we not inquire into his qualifications, and consequently into the offence of which he stands charged? Or are we to translate him to the Supreme bench, without noticing the fact that he stands charged with official tyranny or corruption by the grand inquest of the nation? Sir, it appears to me there is in this an affectation of delicacy—a morbid sensibility—it is altogether new; the Senate has never hesitated to inquire into official misconduct, the better to enable them to perform legislative or executive duties. Let me instance a distinguished case—that of the Seminole war. A committee of the Senate was elected by ballot purposely to investigate the conduct of General Jackson in that war. This investigation involved the questions whether the commander of the army had violated the constitution of the United States, in waging war against a foreign Power; and, if so, whether he could be justified by orders from the President or Secretary of War. This was looking into impeachable matter which might involve the Secretary of War, and even the President; both, by the constitution, impeachable officers. The committee were not restricted in that case, but they did investigate, and made a report, which, in explicit and decisive terms, censures the conduct of the commanding general, and this at a time too when the public pulse beat high in his favor.

But, sir, this objection proves too much. There is scarcely a branch of the resolution of inquiry but is liable to the same. The present condition and entire management of this department gives us a broad commission indeed, and we cannot move a single step without being exposed to meet, by possibility, impeachable matter. The Senator from New Hampshire is willing for general, but not for particular inquiry as a basis of legislation. What can he mean? What would be general enough to suit him? Is an inquiry into the causes of removal too "particular?" How are we to inquire into "the entire management of the Post Office Department," without going into particulars? What prudent man would be satisfied with the concerns of his farm or plantation, without examining the detail?

The Senator from Tennessee insinuates strongly that the question which so much afflicts him and his friend, the Postmaster General, is "unbecoming, and calculated to convey false impressions." With all due deference to that Senator, I must take the liberty to be my own judge of propriety, subject, however, to the discipline which the rules of the Senate prescribe. Unbecoming! Not suitably respectful, I suppose, to the high dignitary to whom it related! Unbecoming to inquire of a witness, why this dig-

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nitary did a certain official act? And has it come to this so soon? Sir, if decorum is to be properly graduated, let this clerk of the President, this new fledged head of a department, always solicit, and with all humility, that this Senate will charitably examine his case, and hear his reasons or his excuses. Calculated to convey false impressions! How? Impressions are made every where that these removals are persecutions. Are these impressions correct or false? If false, how can an inquiry into the true cause make them more false than they are?

These removals may have been made purposely to increase Executive power and patronage. If so, a bill like that of 1826 may be reported to correct this abuse. If, then, when no proscription in that department had been felt or even suspected, it was deemed necessary to prevent even the possibility of post office patronage, how much more is it now necessary to interpose, when every one opposed or even suspected is swept off as with a whirlwind? Then no post office patronage had been felt; even jealousy had scarcely imagined it. Then the Postmaster General had not subscribed to the proscription system. The late Postmaster General had never deemed it consistent with his official duty to require a political creed as a qualification for office. His inquiries were, "is he honest, capable, and faithful to the constitution?" Adams or Jackson were no questions with him; and had it not been for this his Roman virtue, he would still have been retained—the managers had need of his character and influence, but they were afraid of his integrity. To keep him, they made his department a constituent part of the cabinet, that his acts may be under its control. If they could get him in their team, they might use him to their purpose. But Mr. McLean had too much integrity and independence of character to become a machine to execute a system which he abhorred; he was not proscribed, but laid on the political shelf. Removals from office are to be made for the benefit of the people, for whose protection and safety these officers are established. If officers who were unworthy should have been retained, the error should be corrected; if officers worthy should have been displaced for the purpose of providing for others less qualified or vicious, why should not this mischief require a remedy? In the case before us, it may be that the removals in the Post Office Department have created the embarrassment—that there are embarrassments, we have no reason to doubt.

Would it not be well, then, to inquire into the causes, and, if these unprecedented removals should have been the causes, to prescribe a remedy?

It is most certain that since the present Postmaster General took charge of the department, its movements have been retrograde.

The late Postmaster General, Mr. McLean, states that, in 1828, the funds were, - \$616,394  
That the bad debts or unavailable funds were 284,289

Leaving of available funds at the disposal of the department, - - - 332,105

In November, 1829, Mr. Barry has reduced these funds from \$616,394 to - - - 541,680

From which he deducts the unavailable funds reported by his predecessor, - - - \$284,289

He then deducts further bad debts which he pretends to have discovered, - - - 26,541

310,830

Leaving a balance of, - - - \$230,850

He then endeavors to give the cause of this diminution thus: he says Mr. McLean reduced this fund \$101,256 03 in this way: he expended \$74,714 15, and the residue, \$26,541 88, is composed of unavailable, which Mr. McLean

rendered as available funds. Now, were it true that Mr. McLean had reduced the funds \$74,714 15, and had calculated \$26,541 88 as good, which afterwards turned out to be bad, still is it fair to charge Mr. McLean with an expenditure of \$101,256 03 over his income? But Mr. Barry's excess of expenditure over his income from July, 1829, to July, 1830, is \$82,000

Add to this the sum expended by him from April to July, which he has included in the \$74,714 15, charged to Mr. McLean's administration, 32,000  
Add, moreover, as in the general appropriation bill, 60,640

And you will find that in the first five quarters of Mr. Barry's administration, he has expended over and above the income, 174,640

This is not all. Under the act of May, 1828, there were established two hundred and thirty additional post routes, at an expense, probably, of \$40,000. More than half of this expense was, probably, incurred by Mr. McLean. These routes went into operation in January, 1829, and the profits of the first quarter did not fall due until April, and were, consequently, not paid in to Mr. McLean, but to Mr. Barry. He admits, also, that the income from the office has increased in the last year about \$150,000. Now, the appropriation bill of the first year of Mr. Barry paid him about \$10,000 more than it did in the last year of Mr. McLean; and with all these facilities, how does it happen that Mr. Barry has consumed, in five quarters, \$114,000 of the Post Office funds over and above the income, received upwards of \$10,000 from the general appropriation bill above the former year, the avails of the whole first quarter of the new routes established in May, 1828, \$150,000 of additional revenue, and yet that the available funds, which, in 1828, were \$332,000, should, in 1830, be down to \$148,000? Should we this year appropriate no more than the \$60,640, (the appropriation of the last,) and the draft upon the surplus fund should be no greater than for the year 1830, \$82,000, the expenditure for 1831 would consume the whole amount of this surplus fund, and the department will be literally bankrupt. That is, for the first time since its establishment, it will fail to support itself.

Now, this aspect of affairs may be erroneous, but I can see no error. It presents at least a subject of inquiry. We would examine if these things are so! and, if they are, whether the changes of the officers may not have produced this effect. If Mr. McLean had retained six hundred bad officers, so bad that they deserved to be removed even without notice, and his successor had substituted as many faithful men in their stead, it would seem a little strange that while the officers were becoming better, the office was growing worse. In the first aspect of this affair, it would seem that in these exchanges we had made a bad bargain.

The late Postmaster General had never proscribed—and never injured of the party feelings of an officer or a candidate. Yet, it is believed that, when the present Chief Magistrate came into office, a decided majority of the postmasters were in his favor. I do not ascribe this majority to any sinister conduct of the late Postmaster General; it was probably because it was the settled plan of the supporters of General Jackson's election, that they took care, and were on the alert, to recommend one of his partisans to fill every vacant office. Take an example in Maine: in the county of York, my own county, there were thirty-one postmasters—Jackson twenty-three, Adams eight. One would have supposed that chose an Adams elector, would have satisfied the most insatiable and vindictive persecutor; especially as the remaining eight were offices so insignificant, that they were scarcely worth holding, and most of them, probably, more trouble



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than profit. But no! the knife was applied even here: three of these have been removed, two resigned "to save the trouble," and one remains; and of the remaining two I am not certain. Thus we see in a single congressional district, the whole post office influence, with custom-house officers and all others, brought to bear on the freedom of election, and then the administration will boast of success! An army of officers let loose to dragoon the people, the election is carried, and then you stand upon public opinion. Now, this is the very evil that the inquiry is intended to remedy. It is the abuse of public opinion; it is the morbid state of the body politic, produced by this deleterious influence by a subsidized press and a corrupt post office, which we deprecate.

In New Hampshire there are two hundred and thirty-six postmasters, and between the 4th of March, 1829, and the 22d March, 1830, forty-five had been removed; and without any notice, as I am told, of the least complaint against them, except they would not obey your god, nor worship the image which ye have set up. It is reported to me, and from a source entitled to full credit, that a certain distinguished officer of the palace, upon whom this Senate has since stamped its veto, presented on one morning a proscription list containing twenty-five, with an order that they should be removed, and, without examination or scruple, they were all struck from the rolls at a single dash. Sir, it is said that the chief of the Cyclops, Polyphemus, would be satisfied with two full grown Greeks for his supper, including flesh, blood, and bones; but your Postmaster General must, to satisfy his maw, devour twenty-five Yankees at a breakfast! Only think! Insatiable! unconscionable! Twenty-five full blooded New Hampshire Yankees at a single meal! Such a monster can scarcely be found even in the regions of fiction; but this is a horrid reality.

But every thing is done now upon "high responsibility." This panoply of oppression and fraud is to shield the subordinate officers as well as the President. Every petty tyrant is to cover his crimes by this ægis. No, sir, the truth must be that neither the President nor his minions can give any good reason for these corrupt and corrupting measures, and they, therefore, have to resort to silence as their only defence against an indignant and insulted people. They know, and every one here knows, that the removals have been chiefly made to provide for partisans, and they are ashamed to acknowledge it. Sir, it must be so; for what rational man would not even volunteer his reasons, where his motives were just and honorable? A gentleman was waked in the night by some one in his cellar stealing his meat; he jumped out of bed, and went and opened his cellar door. It was all dark: he listened; all was still as death. "Who is there?" he inquired. No answer. "What are you doing in my cellar?" Not a word. "Why don't you speak?" "Why, faith, sir," replied the other, "it is because I don't know what to say." Now, these men have got into the people's cellar, and are making dreadful havoc with the meat, and they won't speak, because they don't know what to say. Last session we predicted that irresponsibility, which is the legitimate meaning of "high responsibility," would descend to the subordinate officers of the Executive departments; that espionage and proscription would be pursued with a corrupt and cruel hand; and, not being a subject of inquiry, it would be beyond the people's reach, because it was beyond their means of knowledge. You see, then, the principle which this resolution involves—a principle fit only for tyrants—a rod fit only for slaves. Pass this resolution, and you make proscription a legitimate work. Pass this resolution, and it is fair to infer that each petty officer of the President will become a partisan tyrant, beyond the reach of the representatives of the people, and answerable to no human tribunal.

When ambition is set upon its purpose, the end is always

made to sanctify the means. When Constantinople was taken by the Turks, Irene, a beautiful Grecian lady, of an illustrious family, fell into the hands of Mahomet the Second, then in the prime of youth and glory. His savage heart was subdued by her charms; he made her his wife, and secluded himself with her, denying access even to his ministers. The soldiers, accustomed to activity and plunder, began to murmur, and the infection soon spread even among the commanders. The Pacha Mustapha was the first to acquaint his master of stories told publicly to the prejudice of his glory. The tyrant, after an awful pause, formed his resolution: he ordered Mustapha to assemble the army, and then retired to Irene's apartment. "Never before," says the historian, "did that princess appear so charming; never before was the prince so apparently kind and affectionate." He ordered her maidens to dress her in the most splendid and costly attire—led her into the midst of the army, and, taking off her veil, demanded of his officers if they had ever beheld such a beauty? Then drawing his cimeter, and seizing her by her locks, he severed her head from her body at one stroke! Then, turning to his grandees, with eyes wild and furious, with the gasping head in one hand, and the bloody sword in the other—"This sword," he exclaimed, "when it is my will, knows how to cut the bands of love!" Thus does a mad ambition extinguish all the tender sympathies and endearing charities of social and domestic life. Your sword of proscription, regardless of them all, is now brandished, reeking with blood. The charms of virtue, the ties of friendship, the sufferings of revolutionary patriotism, are no protection, no security against this relentless monster, proscription.

And rivals, sir, when they can agree in a distribution of power, will each claim to be allowed his proscription list. The triumvirate agreed to divide the Roman Empire, and each to take his share—I do not allude to the first triumvirate, composed of Julius Cæsar, Pompey, and Crassus: I mean the last—Lepidus, Mark Antony, and Octavius. It was concluded to meet on an island in the Rhine to settle the compact. Each was to be protected by a selected guard, and such is the jealousy of rival politicians, that, in this case, the island must first be searched, to ascertain if assassins were lurking there; next, each of their persons must be examined, to see if there were daggers concealed in their clothes. Finding all safe in these particulars, they proceeded to divide the empire. Both Antony and Octavius considered Lepidus a sort of dead weight, a millstone about their neck; and, to get rid of him, they assigned him the West, including Spain, where the Roman authority was very precarious. Mark Antony's share was the North, including Gaul; and Octavius took the South, including Africa, the islands, and the south part of Italy, embracing Rome.

This being settled, each presented his proscription list of those who were to become the victims of this very disinterested, patriotic distribution of the republic. When Octavius saw Cicero, his old friend and preceptor, stand at the head of Antony's list, his youthful heart was horror struck, and he vehemently and peremptorily protested against the barbarous deed. But all would not do; it was a *sine qua non*, and ambition at last yielded to the demand; the lists were all confirmed, and, in consequence, there were assassinated in one night three hundred Senators, and two thousand Roman Knights! Proscription here is not yet quite so bloody, nor do I know that each of any triumvirate here has presented his list. In looking round us, however, it would not, I think, require a very fertile fancy to find an analogy to this triumvirate to which I have referred. You recollect the catastrophe there; I express no wish in regard to the result here. I should prefer that some Brutus should be found to succeed against the whole coalition. But if not, if the result is to be the same, and young Octavius is to subdue his rivals, and to become the



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Augustus, I should rejoice, at least, that the temple of Janus was to be shut.

Sir, when this resolution was offered, I was reading the important news which I had just received of the revolution in Poland, and was exulting in the glorious event. In a half reverie, my mind was ruminating on the vicissitudes which that gallant people had experienced; the barbarous and despotic partition, when the unfortunate Stanislaus was compelled by the Cazarina, Maria Theresa, and Frederick, to surrender the best part of his dominions. I then glanced on more modern times, when another partition had completed the catastrophe. I thought, too, of a Kosciusko, a Pulaski, and a Poniatowski. In this state of mind, I heard read a resolution from a republican Senator, going to establish a principle that a subordinate executive officer was not to answer an inquiry into his official conduct. The contrast was so impressive, that, I confess, a chill struck me to the heart. When all Europe is alive to popular rights, and the people are every where demanding a surrender or restriction of Executive power, that not only we the people, and we the representatives of the people, but we the Senate of the United States, "most potent, grave, and reverend seignors," are to go in a body and surrender our liberties, and those of our constituents, not merely at the foot of the throne, but at the feet of a petty subdelegate!

Mr. President, it is in vain to expect a full exposition of the affairs of this department—and I now forewarn my friend, the chairman, that his honest zeal will be disappointed. I have seen enough already to convince me that a full and fair report is not to be had. If the Postmaster General asks for limits to the investigation, his friends on the committee will indulge him, and eventually he will succeed where he wishes in shutting out inquiry. In this, I cast no imputation upon any of the committee or the Senate—the effect which I predict may perhaps arise from an honest, though, I fear, a premature confidence in the intelligence and fidelity of that officer. I repeat, a full and fair report of the entire management of this department is not to be expected this session, if ever. Without the inquiry into the causes of removal, it is impossible.

Sir, I have done. In times when some New England States indicated a wish to nullify the acts of the General Government, the Senator from Tennessee [Mr. GRUNDY] and myself took sweet counsel together, and reprobated such infatuation. Now, when Georgia and South Carolina are still more infatuated, he abandons the old ground. Would that this were all. But it seems to me he has come to this absurdity—Independent States beyond federal control, and a federal Executive above responsibility! "Oh world, thy slippery turns!"

Mr. GRUNDY again rose. The Senator from Maine, said Mr. G., has thought proper, in his concluding remarks, to remind me of our ancient association, and of that period when we struggled together in behalf of our country. It is true, sir, there was a time when that Senator and myself held full political communion together, and stood side by side against those whom we considered hostile to the interests of our country. But these times have passed by. Men and things have changed; and, perhaps, no two men now stand more apart and farther separated from each other. This was announced at the last session, when, in the presence of this Senate, a solemn dissolution and severance of our political connexion took place.\* I then apprehended, and I now see with sorrow,

\* This has allusion to the following extract from Mr. Grundy's speech on Mr. Foot's resolution, at the last session:

"The Senate will excuse me for saying a few words in relation to the partnership made up by the Boston parson, during the last war, and now added to by the gentleman

that his senior partner has acquired an entire ascendancy over him; and by this means I account for many things which I now see and hear, so entirely inconsistent with that gentleman's former political course. Our separation must be perpetual; and I can only now look back with pride and pleasure at what he once was, while I contemplate with pain and grief what he now is.

Before I proceed to answer the arguments of gentlemen, the Senate will indulge me in presenting to them a true account of the fiscal operations of the Post Office Department, so far as may be necessary to a right understanding of the conduct of its present presiding officer. The charge against him is, that in the last fiscal year, ending the 1st July, 1830, he has expended one hundred and fifty thousand dollars more than has been expended in the same time at any former period. This is a fact; and its existence is eagerly seized, and presented as evidence of a profligate waste of the public money. If the fact stood alone, and unaccompanied by any explanation, it might be entitled to some consideration; but when it shall be seen that this expenditure has been produced by contracts not made by the present incumbent, but by his predecessor—contracts not improvidently made, but made advantageously and beneficially for the country—when it shall appear that portions of this money have been expended in increasing mail facilities, in changing horse to stage routes, in accelerating the mails from twice and three times a week to daily mails, through the great arteries of the country, and extending it to every newly created seat of justice in the Union; and when it shall also appear that this increased expenditure has been accompanied by a corresponding revenue to the department, it would seem to me that a sense of justice should induce the gentlemen on the other side to suspend, at least, a portion of their censure.

The report which the committee expect from the department will show the original contracts, and the increased labor imposed on the contractors, and the additional sums agreed to be given by the department for the additional duties required: and it is a fact highly creditable to the Postmaster General, that a far less sum, in the aggregate, is now allowed, than the law warranted him in giving.

I will now proceed to show to the Senate a history of the expenditure complained of. For the year ending 1st July,

from Maine, which makes it to consist of James Madison, Felix Grundy, his Satanic Majesty, and John Holmes.

"I was honored too much when my name was inserted in the title of the firm. I never had, nor have I now, capital or capacity for business sufficient to entitle me to such distinction; and, therefore, in the new arrangement about to be made, my name will not be inserted, either in the title of the firm, or upon the sign-board. Mr. Madison has become old and rich; for an honest and well-earned fame is a politician's wealth. He has retired from business, and Andrew Jackson has taken his place; the business will, hereafter, be conducted under the name and style of Andrew Jackson and Company. Of this firm I will be an humble and unnamed partner. The gentleman from Maine will not assist in conducting the business of this firm, and the third person named has a violent antipathy to it. Therefore, the best thing that can be done, is to dissolve the partnership, and let the two characters last named establish a new firm, under the name and style of —, [meaning the Devil and John Holmes.] In making this division, great reliance is placed on the many excellent qualities and superlative virtues of the gentleman from Maine, which will enable him to keep the senior member of the firm in order, should he prove refractory. To this dissolution of the old firm, and the establishment of the two new ones, I call all these Senators to bear testimony."

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1828, the expenditures exceeded the receipts \$25,015 85. For the year ending 1st July, 1829, the expenditures exceeded the receipts \$74,714 15. And this is alleged as cause of accusation against the Postmaster General. Let it be recollected, that the present Postmaster General came into office on the 6th day of April, 1829, and had made no contracts, payments for which could have fallen due on the 1st July, 1829, every contract having been made by his predecessor. He was merely fulfilling prior engagements, and is entitled neither to censure nor praise for the effects of contracts made before he came into office. The excess of expenditure for the year ending on 1st July, 1830, was \$82,124 85. For the first half of this year, the whole transportation of the mail was under contracts made by Judge McLean; and for the last half of the year, three-fourths of the preceding contracts continued, the western contracts only having terminated. It should be noticed that the expenditures for the second half year of 1829 were \$948,366 74; and the receipts in the same period \$892,827 60; producing an excess of expenditures for that half year of \$55,539 14. The expenditures for the first half year of 1830 were \$984,341 21; the receipts for the same period \$957,755 50; leaving an excess for the last half year of \$26,585 71; and it appears from the report at the commencement of the present session, that the excess of this last half year was actually but \$17,019 16; a portion of the current expenditures that were made in the preceding year having been entered in the accounts of the first half of the year 1830—apparently increasing the excess of this half year to \$26,585 71. Thus it appears, that in the first half year, after the contracts of the present Postmaster General began to operate, there was a great saving to the Government. I do not urge this as cause of censure against the predecessor of the present incumbent. He was an able and upright officer; he made valuable improvements in the department; and it is no reflection upon him to say, that his improvements have been improved upon, and that others have originated with the present head of that department, calculated to produce much public benefit. As an evidence that the condition of the department has improved since he came into office, I will merely state the fact, that the whole amount of postages from the 1st July, 1828, to the 1st July, 1829, was \$1,707,418 42; and the amount of postages from the 1st July, 1829, to the 1st July, 1830, is \$1,850,583 10, giving an increase in the first year of \$143,164 68. This is an unprecedented increase of revenue in the history of this department.

Notwithstanding these facts are known and exhibited to public view, and to the inspection of gentlemen on the other side, still they say this Executive Department is going to ruin. Facts appear to have no effect on their minds; arithmetical demonstration produces no conviction, so determined do they seem on effecting the destruction of this officer. This investigation has produced a very different impression on my mind. I viewed the present Postmaster General chiefly as a man of general talents, an able and eloquent advocate; but I now perceive him to be the practical man—the able man of business—capable of grasping, with ease, the vast system, and comprehending the intricate machinery of this department, and of directing its energies to the greatest benefit of the country.

There is now of available funds at the disposal of the department, the sum of \$143,724 22. As a further evidence of the increasing prosperity of this department, I will read from the report accompanying the President's message, so much as will show some of the improvements which have been made by the present Postmaster General:

“Between the 1st of July, 1829, and the 1st of July, 1830, the transportation of the mail was increased, in stages, equal to 755,767 miles a year; on horseback and in sulks, 67,104 miles a year; making an annual increase of

transportation, equal to 812,871 miles a year, beyond the amount of any former period.”

The annual transportation of the mail on the 1st of July last, was about 9,531,577 miles in stages; and the whole yearly transportation in coaches, steamboats, sulks, and on horseback, amounted at that period to about 14,500,000 miles.

The existing contracts for transporting the mail in the Southern division, embracing the States of Virginia, North Carolina, South Carolina, Georgia, and the Territory of Florida, will expire with the current year. In the renewal of these contracts, provision has been made for extending stage accommodations over 1502 miles of post roads, on which the mail has hitherto been carried on horses only, or in sulks, and on which the annual transportation in stages will, from the 1st of January next, amount to 278,656 miles. The frequency of trips will also be increased on 894 miles of existing stage routes, to the annual increase of 138,358 miles; making, together, an increase of stage transportation of the mail, from the 1st of January next, of 417,014 miles a year.

Provision is also made for the more frequent transportation of the mail on different routes, as follows:

Increase of trips on horse routes, 31,824 miles a year; increase of trips on existing routes, changed from horse to stage routes, 118,456 miles a year; increase of trips on stage routes, 138,358 miles a year; making, together, a total increase of 288,628 miles of transportation of mails in a year, beyond the amount of present transportation in that division, besides the improvement of substituting stages for horse transportation.

Among these improvements are included a line of stages from Edenton to Washington, North Carolina; from Newbern to Wilmington, North Carolina; a steamboat line from Wilmington to Smithville; and a line of stages from Smithville, North Carolina, to Georgetown, South Carolina; all of which are to run twice a week each way. These arrangements will complete the regular communication, by steamboats and stages, between Baltimore, Maryland, and Charleston, South Carolina; along the seaboard, by way of Norfolk, Virginia, Elizabeth City, Edenton, Washington, Newbern, Wilmington, and Smithville, North Carolina, and Georgetown, South Carolina; an accommodation desired alike by the public and the department.

Provision is also made for expediting the mail on many important routes; among which is the whole route between this place and Fort Mitchell, via Richmond, Virginia, Raleigh, North Carolina, Columbia, South Carolina, and Milledgeville, Georgia; which line will be traversed in two days less time than at present; so that the mail will run from this city to New Orleans in thirteen days after the 1st of January next.

Allowing the average expense of transportation, by horse or sulky, to be five cents per mile, and by stages to be thirteen cents per mile, which is about the mean rate paid in the Southern division, the value of these improvements, exclusive of the value of increased expedition, will be as follows:

Annual amount of transportation changed from horses to stages, 278,656 miles, at 8 cents per mile, (the mean difference,) -	22,292 48
To be added for increased number of trips on the same, amounting, annually, to 118,456 miles, at 5 cents per mile, -	5,922 80
Increased number of trips on former stage routes, amounting, annually, to 138,358 miles, at 13 cents per mile, -	17,985 54
Increased number of trips on horse and sulky routes, amounting, annually, to 31,824 miles, at 5 cents per mile, -	1,591 20

Making the total annual value of the improvements, - - - \$47,793 02

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The contracts have been made for the ensuing four years from the first of January next, including all these improvements, at a sum less than the amount now paid for transporting the mails in that division, by 25,047 87  
To this sum add the estimated value of the improvements, as before stated, 47,793 02

And the actual saving to the department in the renewing of the contracts, will amount, annually, to 72,840 89

Besides the very considerable amount gained in the increased expedition of the mails on many routes of great interest to the community, the value of which cannot be well estimated.

In this saving in the expense of the contracts, and the additional revenue which may be anticipated from the improvements they secure, together with the general increase of postages, which is still progressive, will be seen a foundation for the belief which has been expressed, that the current revenue of the department for the succeeding year will be sufficient for its disbursements.

I have thus shown to the Senate the condition of the fiscal concerns of this department, and the improvements which have been made in the transportation of the mail.

I now approach a subject more intimately connected with the inquiry before the Senate. The removals of postmasters, called by the gentleman from Maine "proscription," a word which, from long habit and frequent use, he pronounces better than any man in this nation. There are about eight thousand five hundred postmasters in the United States; and, since this administration came into power, which has been near two years, about five hundred have been removed. Let us now see whether there be not unquestionable causes of removal, which may properly have produced as great a result as this. If a postmaster should commit any depredation on the mail, he surely ought to be removed, although the gentleman from Maine should exclaim "proscription." Should a postmaster violate the secrecy of correspondence, which some men have done, the Postmaster General ought not to be deterred from removing him by the cry of "proscription." The same fate should await all delinquents in paying their dues; likewise those who fail to render their accounts, or who abuse the franking privilege; and if, for any of these causes, removals take place, the gentleman from Maine entertains the Senate with his "proscription." Fraudulent exactions of postage—concealing or detaining letters, newspapers, or pamphlets—constitute just causes of removal; and if they are made, we hear the gentleman from Maine cry out "proscription!" Habits of intemperance disqualify a man for the office of postmaster; and, although temperance societies have done much in removing this destroyer of the human race from our land, I would still ask, if there be no drunkards in Maine? And should I be answered, that these worthy societies have entirely succeeded in the East, we are not quite so fortunate in the West, although they have made promising and successful progress. Still this vice in some degree prevails; and should a postmaster be seen staggering and reeling to his office, so blind that he could not see a letter, and he should be removed, the gentleman from Maine, unconsciously and from habit, would cry out "proscription." Insulting or unaccommodating deportment to persons having business at the office—habitual carelessness and inattention to the duties of the station, constitute just cause of removal; incompetency—refusing to comply with the standing regulations of the department—employing assistants of bad character—the commission of crimes—a dissolute course of life—such conduct as is calculated to destroy public confidence in the office, these are just causes of removal; and if a postmaster be removed for any of these, another victim is added to the gentleman's "proscription." The remote residence of the postmaster from the office—the refusal

to give new bonds when required—being engaged in pursuits of a disqualifying character; such as will cause long periods of absence from the office—having too considerable a correspondence for the postage to be withdrawn from the revenue—being concerned in a mail contract—the inconvenient location of the office—all these render removals proper; and yet the present Postmaster General cannot act upon such cases as these without hearing the political clamor of "proscription!" And men should, in some instances, be removed to obtain the services of those better qualified to discharge the duties of the appointment. It has happened under every administration; it has happened under this, and will occur under every succeeding one, that from misrepresentation some improper removals and appointments will take place. Taking into view all these causes which I have enumerated, is it not rather matter of wonder, that, in the course of nearly two years, but a few more than five hundred out of eight thousand five hundred have been removed. My apprehension is, that even yet there remain among the subordinate agents of this department some men unworthy of their places. I confidently hope that the present Postmaster General will go on, until none shall be continued in the employment of the department, but men of worth and integrity, and that he will not be deterred from his duty by the cry of "proscription."

The power of appointing his deputies, is given by law to the Postmaster General solely. What right of supervision has the Senate over his discretion in these matters? If they have any, it must result from the claim that the functions of the Executive are to be performed in subordination to this body. This is neither in accordance with the theory, the practice, nor the principles of the constitution of this Government.

I will now show to the Senate some of the effects of this "proscription," which, in the poetical language of the gentleman from Maine, "makes the land turn pale." It will be recollected that, on the 1st May, 1829, the postmaster in this city was removed, and Dr. Jones—who is no Midas, at whose touch every thing turns to gold—was appointed his successor. According to the report on my table, the nett proceeds of the office, immediately preceding this change, for one year, was \$2,803 25, and in the first year under Dr. Jones's management, the nett proceeds amounted to \$7,943 11 producing a clear gain in one year of \$5,139 86. Yes, sir; this single post office, under the present administration, without the aid of additional commerce, or any unusual assemblage of citizens, has produced a profit in one year to the Government, of the sum which I have quoted, and this is "proscription." I call it reform—call it by what name you may, it has produced results beneficial to the country; and the profits, since the year which I have mentioned, have shown that the increase is not of a temporary character.

Another effect produced by what the gentleman calls "proscription," may be exhibited. There are not half so many new cases of delinquent postmasters as at former periods; there is a reduction of the number of delinquencies since the first of January, 1825, of more than one-half; and this reduction has been sensibly experienced within the last year. This must be owing to some adequate cause. I know of no other to which it can be ascribed, but the terror of "proscription," which teaches, that for failures in the discharge of their duty, they will be removed from office. When I see such effects produced, I shall not be dismayed by the term "proscription;" for my country profits, though the incumbent lose his place. We shall hear no more of such losses as \$10,000 in a single post office, as in the case of Fowler.

A charge has been exhibited in the committee against the Postmaster General of indebtedness to the Government; and Abraham Bradley, the dismissed assistant Postmaster General, has been examined to support this charge.

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Although his testimony does not tend to establish the fact for which the witness was introduced, it develops some facts of a highly interesting character to the community. I have the minutes of his deposition before me, subject to the inspection of every member, and I beg the attention of the Senate while I relate the substance of it upon this point.

He states that, many years ago, John Fowler, of Lexington, Kentucky, was appointed postmaster at that place; that he gave bond, with James Morrison and others as his sureties; that, he became a delinquent to a very large amount, and then gave a new bond, with W. T. Barry and five others as his sureties; that after the execution of the new bond, he paid up regularly, or nearly so, what fell due at the end of each quarter, amounting in the whole to all that was due from the time the new bond was executed, until he was removed from office. I will here remark, that I am authorized to say, by a respectable man now in the city, that Mr. Fowler, long before the surrender of the old bond, of which I shall presently speak, and before the department had applied the payments to either bond, directed the Postmaster General, Mr. Meigs, to apply all the payments made after the execution of the new bond, to the new account of his receipts.

Mr. Bradley further states, in his deposition, that there was no credit given on the old bond—that there was no application of the payments made to either bond, in any of the books of the department—that there was nothing but a general account current between Mr. Fowler and the department, in the books of the office—that the old bond was delivered up to James Morrison, after a sufficient sum had been paid, subsequent to the execution of the new bond, to satisfy the amount due under the old one, and this was done without the knowledge of the sureties in the new bond. Mr. Bradley does not expressly state whether the then Postmaster General directed the surrender of the old bond or not; but it is due to the memory of Mr. Meigs to state that he was a correct and honest man, and that there are letters of his still in existence, in which he stated that he had no knowledge of the manner in which the bond was abstracted from the office. It does not concern the present question to decide by whom this bond was surrendered. The great and important fact is established, that the bond was surrendered by the department to one of the sureties in it. Such are the acts which make a "land turn pale." Here is an official bond—not securing alone to the Government what might be due upon it, but also the good behavior, for the time of service, of the postmaster, and constituting the security to which any party, injured by his misconduct in office, was to look for indemnity—surrendered up. And this has been done contrary to law, and the uniform usage of the office. But one case besides this had occurred during the thirty years' continuance of the witness in that office. Why was the surrender of this bond applied for by Major Morrison? Certainly because he was afraid of his legal liability under it. Why was it surrendered? It must be because the person surrendering it was willing to release Major Morrison, with a view of throwing the delinquency which had occurred prior to the execution of the new bond, upon its sureties. The effect produced by the surrender of the old bond, we can all see. The department has lost ten thousand dollars. Major Morrison lived and died a wealthy man, able to discharge all his pecuniary responsibilities. Many years since, Major Barry and others were sued on this bond; the court decided that the bond had no legal obligatory force; a new trial was granted, and the suit was dismissed. This, it is admitted, constitutes no legal bar to the commencement of a new action; but the fact that the late Postmaster General did not commence suit during his continuance in office, which was several years after the dismissal of the first suit, furnishes a strong argument against the validity of the claim, from the opinion of the department itself, when it was under the management of

an individual of high legal attainments, whose interest in the subject, if he had any, was only to collect the debt due to his department. Upon the facts thus stated, who can pronounce the present Postmaster General a debtor to the Government?

I am aware of the legal doctrine which may be urged on the other side; which is, that if one individual be indebted to another upon two bonds, and payments be made by the debtor to the creditor, without any direction on the part of the debtor, to which bond the payment should be applied, the creditor may elect to which he will give the credit. This is admitted to be the law, where no other individuals are interested than the debtor and creditor; but I should very much doubt whether a court and jury could be found in this country, when the question was between different sets of sureties, who would permit the delinquency which had accrued during the liability of one to be thrown upon others subsequently given, when no kind of delinquency had occurred during the last obligation. In the case of public officers, this would be particularly unjust; the legal effect of the condition of the last bond was, that Fowler should pay punctually, at the end of every quarter, the public money received by him in the preceding quarter: this he had done, and the condition was complied with. Can it be believed that, in this state of things, a court would be warranted in giving judgment against the new sureties for the delinquency which accrued prior to the execution of the new bond; more especially as it can be shown that Fowler directed the application of the payments to the new bond, and this long before the department had applied the money to either? I had thought, sir, the judiciary of the country to be the proper tribunal before which to try a question of indebtedness. The Government has sought to render Major Barry liable before that tribunal, and the suit failed. From the facts now disclosed, it always must fail. Although the Government, by its acquiescence, seems to have abandoned the claim, and this long before the present administration came into power, yet, for party purposes, and to gratify the feelings of a dismissed officer, Mr. Barry is to be denounced as a defaulter, and unworthy of public confidence. Whenever it shall be shown that Major Barry, the present Postmaster General, or either of the Assistants, Colonel Gardner or Major Hobbie, shall have surrendered the official bonds of postmasters, I will not stand here as their defender. No, sir; the clerk of a court who should surrender an insolvent marshal's or sheriff's bond, for the purpose of favoring and releasing the sureties, would stand in a light equally favorable with me. Such conduct, practised by whom it may be, is a high misdemeanor, and merits expulsion from office.

Mr. President: When men set out resolved to find fault, they seldom permit themselves to be disappointed. If facts fail, imagination supplies their place. I cannot, in any other way, account for the censure thrown by the gentlemen from Delaware and Maine on the Postmaster General, for not having answered the interrogatories transmitted by the committee to the department in December last. The Senate will recollect what was said by those gentlemen on that subject; but did any Senator suppose from what they said, that at that moment they had in their possession a letter from the Postmaster General, which gives the most satisfactory reasons for the delay, and which letter had been in the possession of the chairman for several days? I will take the liberty of reading that letter to the Senate, that they may judge whether the Postmaster General be culpable, or the complaint of the gentlemen be without cause.

Mr. GRUNDY here read as follows:

"POST OFFICE DEPARTMENT, Jan. 31, 1831.

"SIR: I have the honor to acknowledge the receipt of your letters of the 18th and of the 27th instant.

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"The preparation of the statements necessary to a reply to the interrogatories formerly submitted by the committee, was immediately commenced, and has been uninterruptedly prosecuted by the department. It has required not only the application of all the disposable force of the department, delaying some of its important current business, but has employed unremittingly several additional clerks. When the work is completed, it will be forthwith submitted to the committee.

"I am, sir, respectfully, &c.

"W. T. BARRY.

"Hon Mr. CLAYTON, Chairman, &c."

This letter tells the gentlemen why the interrogatories sent by the committee have not been answered, and still they urge that this officer has not, in this particular, done his duty. He has also been censured for not making his report in obedience to the call made by the gentleman from Ohio, [Mr. BURNET.] On this morning we have received that report, containing upwards of 6,000 pages; and surely, after gentlemen have heard the reasons assigned by the Postmaster General for the delay, their lips will be sealed upon this subject.

The gentleman from Maine has expressed a hope that the objection involved in this resolution did not come from the Postmaster General; but admonishes us that the public will say that it came from that quarter. I cannot tell what the people in Maine may be taught to say on this subject. I shall say to the people of Tennessee, that I made this objection upon my own judgment and responsibility; and to prevent him from falling into an error, I will now state, that although the Postmaster General and myself have been in company, both before and since this question has been agitated, I have never heard him express or intimate a wish, or opinion, on the subject. It is argued on the other side, that as the committee have sent inquiries to the Postmaster General, asking him to assign the general causes of removal, that therefore the individuals removed ought in justice to be heard. The committee have not inquired of the Postmaster General why any particular officer has been removed; but if this were even so, is it an argument that should be brought to bear against my friend from New Hampshire and myself? We objected to that course, and were overruled; and now a wrong committed by the gentlemen themselves is insisted on as a justification of a still greater error. It is said that the contingent expenses of the department have been increased. This may be true, and the gentlemen themselves cannot be ignorant of the causes which have produced it. There are not clerks in the department sufficient to perform the ordinary and current business; and these large calls for information upon the department create a necessity of employing other clerks to perform the additional labor. The very report laid on your table this morning must have cost several thousand dollars, and the calls made by the committee will cost several thousand dollars more. These form a portion of the contingent expenses of the department. I cannot believe it fair for gentlemen themselves to occasion the expenditure of money, and then raise a complaint that it is spent. Although I am perfectly willing to see the public money expended for beneficial purposes, and especially for the dissemination of useful information among the people, I cannot discern any valuable purpose that is to be answered by the copies of the 1,400 bonds, under the call of the gentleman from Ohio, this morning received by the Senate from that department; none of them will ever be read, either by the Senator, or any other man in the community.

As to the suggestion that the committee have refused to send to Virginia for witnesses to testify in relation to the great southern contract, these are the facts: A citizen of Virginia addressed a letter to a Senator from that State, complaining of the department for the manner in which

that contract was made. He, as was his duty, handed over that letter to the committee. The witnesses were named in the letter, and a suggestion also that their affidavits had been taken. A proposition was made to send for the witnesses; this was not refused; but it was suggested, and concurred in by a majority of the committee, that before that step was taken, application should be made at the department for the purpose of seeing whether the affidavits of the witnesses were not there, and such other information as might be satisfactory; or at least enable the committee to act more understandingly in making the investigation. The chairman and myself were directed to call at the office and make the examination. I took care to mention to him that I would attend him at any time he should name, when the Senate was not in session. He has not found it convenient to this day to call on me for the purpose of discharging this duty. I have called at the office: I have seen the papers, and they contain a most ample vindication of the department. After the contract was made, the whole subject was laid before the President of the United States at the instance of those who were dissatisfied. The affidavits of the witnesses named in the letter referred to were taken; and, after a patient and full investigation, the President decided that the Postmaster General had acted correctly. If the gentlemen on the other side were anxious to obtain full and correct information in relation to the transactions of this department, why have they not pursued the course I have so often pressed upon them, that the committee should go to the department and examine into all its transactions and doings? I have assured them that I was authorized by the Postmaster General to say that, should such a course be deemed advisable, every thing should be thrown open to the inspection of the committee; that he, his assistants, and clerks, would afford every facility and give every assistance in their power to the committee. By proceeding in this way we could acquire a correct knowledge of the condition of the department, and how it is conducted. This course of proceeding is declined, perhaps wisely, as thereby every pretext of complaint might be removed, and the gentleman from Maine would be so fastened down by facts, that even his fruitful imagination could not furnish materials for accusation.

The gentleman from Maine has stated that in his own county there are thirty-one postmasters; that eight of them were friendly to the election of Mr. Adams, and of these seven have been proscribed; and this, with him, constitutes just ground of complaint. The people from that quarter differ from him in opinion. Since these occurrences took place, the people of that congressional district, with a full knowledge of all the circumstances, have elected a representative favorable to this administration; and in his own county and town, the votes have been cast in favor of a senator and representative to the State Legislature of the same description. If, therefore, the gentleman's complaints are to be tried by the voice of his neighbors, the verdict is against him. The Senator from Maine has said that this voracious Postmaster General has, in the State of New Hampshire, devoured six full blooded Yankees at a single meal. [Mr. HOLMES here interrupted Mr. GRUNDY, and said he did not say six, but twenty-five: Mr. GRUNDY proceeded.] This shows most strikingly the difference between a man of imagination and one who deals in sober realities and facts. I had been lashing up my poor imagination in pursuit of the gentleman from Maine, and could scarcely arrive at six, when he with ease, (such is the power of his fancy,) can reach twenty-five. Twenty-five full blooded Yankees have then been devoured by the Postmaster General at a single meal. If this is to be taken literally, all I can say is, that he is a man of bad taste and strong stomach, for methinks I sometimes see one, the very sight of whom is enough for me. If this expression is to be taken figuratively, and the gentleman



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only means that the Postmaster General has put them aside, and removed them a distance from him, as unfit to be associates with him in the administration of his department, then he may have acted in good taste and no furtherance of the public interest.

The Senate will not expect me to notice the poetry of the gentleman from Maine. My business is with dollars and cents—post offices, and post roads, and this is a poor subject for poetical display. It requires the imagination and genius of the gentleman from Maine to strew flowers over post roads at this inclement season of the year. I will, however, notice his delicate and classical story respecting the public “meat cellar,” and make the true application. As I understand it, this “cellar” belongs to the people of the United States; the gentleman and his friends were once placed in it to take care of it; the people were of opinion that they were not faithful sentinels; they turned them out, and have placed others in, who they believed were more faithful, and the gentleman and his friends are now endeavoring to break in, but the people will not let them. The gentleman further remarks, that when men are seeking for power, any means are resorted to for the accomplishment of their object. Did the gentleman recollect that it might be said that he was illustrating the truth of his doctrine by his own example, and that the tendency of his whole conduct in this whole proceeding went to show that there were no morals in politics? The gentlemen exclaim there will be no report made by this committee. If there be none, the fault shall be theirs, not ours. I hope a report will be made, one that will silence calumny and seal the lips of slander. I have admitted that by means of misrepresentation some men have been removed, whom it would have been better to have retained, and the gentleman from Maine may have known some one instance of that kind; and such is his imagination, that whenever he hears of a removal, let the cause of removal be what it may, he supposes that it has been done improperly, and from a spirit of proscription. He reasons like the medical student; he was taken by his preceptor to see a sick patient; the patient had become worse, and the doctor charged the family with their having given him eggs to eat, which had increased his illness; the fact was admitted; the doctor again prescribed and returned home; the student was curious to know how his preceptor had come to the knowledge of the fact that his patient had eaten eggs; the preceptor told him he had seen the shells under the bed. On the next day the student was sent to see the same patient, and found the man dying, and informed his preceptor that the man had eaten a horse; the preceptor said that was impossible; the student persisted in it, and upon being asked the reason why he thought so, he said he had seen a bridle under the bed; and whenever the gentleman from Maine sees a bridle, or a change of postmaster, a horse or a Yankee, in his imagination, has been devoured.

The gentleman charges this administration with finching. He who is now at the head of this Government never learned the art of finching, nor will he permit those who act under him, either in the field or cabinet, to do so; and the gentleman will learn this, should the Chief Magistrate entertain the same opinion I do in relation to the call made on the Postmaster General to assign the causes which have produced the removals of postmasters. I have said that I thought that neither the Senate nor the committee have the constitutional right to make this demand. Should the Chief Magistrate think so, of one thing I am certain, that he who never suffered his own private rights, or the rights of his country, to be invaded, will not permit an encroachment upon the rights of his official station.

Sir, we cannot mistake the object which gentlemen have in view; they cannot desire to sacrifice the Postmaster General, a man so amiable and honest, an officer

so able, faithful, and efficient, as he is. Their aim is higher; through him they wish to reach the man who keeps them out of power and place; but in this they will fail. “The gods take care of Cato,” and a just Providence, and an honest people will protect and defend the defender of his country against all unjust assaults of his enemies.

TUESDAY, FEBRUARY 8.

## DUTY ON ALUM SALT.

Mr. BENTON rose to ask leave to introduce a bill to repeal the duty on alum salt. He said that this kind of salt was not manufactured in the United States; that it was indispensable in curing provisions, and had to be bought at whatever price it might cost. He said that the uses of salt, and the injury done to the community by taxing it, had commanded the attention of the British Parliament, and occasioned a committee to be appointed in the year 1818, whose labors were a monument to their honor, and a title to the gratitude of their country. They had taken the examinations in writing of more than seventy witnesses, comprehending men of the first character in every walk of life, of whom he would mention Lord Kenyon, Sir Thomas Bernard, Sir John Sinclair, Arthur Young, and Sir John Stanley, whose testimony, with the reports of the committee, extended to four hundred folio pages. He would read some parts of their testimony, and believed that the Senate would perform a great service to the American people if they would direct a committee to make an abstract of the whole, and publish some thousand copies for distribution among the people.

Mr. B. then began to read a part of the extracts which he had made, when he was interrupted by Mr. FOOT, of Connecticut, who made several points of order, one of which was, that Mr. B.’s motion was not seconded. The VICE PRESIDENT said that it was not usual to have motions seconded in the Senate; that the rule was a formality which had not been attended to in practice; but, if any Senator made it a point, the rule must be enforced. Mr. B. then appealed to the Senators from the south of Mason and Dixon’s line to furnish him a second. Several rose, and, observing among them Mr. WOODBURY, of New Hampshire, he gave him the preference, because he was from the north of Mason and Dixon’s line, and because he had been the first to open the campaign against the salt tax several years ago. He said that the report and speeches of the Senator from New Hampshire against the salt tax would remain as monuments to his honor when his own poor exertions were forgotten; and he took pride and pleasure in paying this tribute to him, and making it more fully known in the West, that he was only the follower of that distinguished and patriotic Senator, so justly dear to the whig republicans of all quarters of the Union, in waging a war of determined hostility against the salt tax.

The other objections of Mr. FOOT being disposed of, Mr. B. went on to read, or state, the extracts to which he referred.

## EXTRACT.

1. *From Sir John Sinclair’s evidence.*—I was once at the farm of a great farmer in the Netherlands, a Mr. Messelman, at Chenoi, near Havre, where I was surprised to see an immense heap of Cheshire rock salt, which he said he found of the greatest use for his stock. He said, first, that, by allowing his sheep to lick it, the rot was effectually prevented; secondly, that his cattle, to whom he gave lumps of it to lick, were thereby protected from infectious disorders; and the cows being thus rendered more healthy, and being induced to take a greater quantity of liquid, gave more milk. And I saw lumps of this salt, to which the cows had access, in the place where they were kept. He also said, that a small quantity pounded was



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found very beneficial to the horses when new oats were given them, if the oats were at all moist. \* \* \* He gave them great lumps, that they (the cattle) might lick when they chose. \* \* \* One of the most important uses of salt, as connected with agriculture, is, that it preserves seed, when sown, from the attacks of the grub." \* \* \* In a communication to me from Sweden, by Baron Schultz, he says, the salt destroys the different sort of worms found in the bodies of sheep, but in particular the liver worm.

## EXTRACT.

2. *Arthur Young's Testimony.*—Did you ever try salt in the feeding of your cattle?

Yes; but chiefly with sheep; and I found the sheep astonishingly fond of it.

Do you think that it would be beneficial in preventing the rot in sheep?

I found it so in the years when my neighbors' sheep were generally affected with the rot; my sheep escaped, and my land was quite as wet as my neighbors'.

Do you think, considering the advantages in health, fattening, and the power of using inferior food in the feeding of cattle and stock in general, that the free use of salt would be an advantage equivalent to seven shillings a head to the farmer?

I should think it would be worth a great deal more. I think it is invaluable. In short, let my answer be what it would, it would be under the mark.

Dr. Young then gave his opinion that the stock in England would be increased in value above three millions sterling, nearly fifteen millions of dollars, by the free use of salt. He estimated the stock in England to be—

Horses,	-	-	-	1,500,000 head
Cattle,	-	-	-	4,500,000 do.
Sheep,	-	-	-	30,000,000 do.

## EXTRACT.

3. *Testimony of William Glover, superintendent of the cattle of the Hon. Mr. Curwen, M. P.*

This deponent began to give salt to the cattle under his care the 19th November, 1817, and from that time till now the cattle have had salt, as follows: 40 milch cows and breeding heifers, each 4 ounces per day; 30 oxen, 4 ounces each per day; 27 young cattle, each 2 ounces per day; 26 calves, 1 ounce each per day; 48 horses, each 4 ounces per day; 444 sheep, 2 ounces each per week. The advantage of salt for sheep appears to this deponent to be great; as he says none of the stock have died in the sickness since they commenced giving salt; and they have had none in the rot; in other years they lost some of the ewes and wethers in the sickness. And this deponent says that he has now kept the cattle at Schoose farm ten years, and they were never so long without sickness.

4. *The affidavit of thirty-two farmers.*

We, the undersigned, being farmers, and the owners of land in the neighborhood of Workington, do hereby certify, that we are acquainted with and witnesses to the fact of Mr. Curwen giving salt to his cattle and horses, with their food, at the Schoose farm and at Workington; and that we are desirous of using the same for our live stock if we could obtain it without difficulty, and at a cheap rate.

## EXTRACT.

5. *Testimony of Mr. Curwen, M. P.*—In regard to cattle, I have under-estimated the quantity, because, if salt could be had at a moderate price there is no animal I would give less than six stone, (14 pounds to the stone,) each per annum. \* \* \*

I believe if salt were in general use for cattle it would amount to 340,000 tons—about 14,000,000 bushels—\* \* \* "The importance of the free use of salt to agriculture can scarcely be estimated too highly. Salt contributes not only to the health of cattle and sheep, but

accelerates and promotes the quantity of milk given by milch cows. [In another place Mr. C. says that the use of salt prevents the ill taste which the feeding on certain weeds and vegetables imparts to the milk.] It prevents the rot in sheep, and the effect of hoving, when stock are fed on turnips or clover. \* \* \* Salt renders damaged hay palatable and nutritious; and, if applied in difficult seasons, prevents an undue fermentation and heat in the stack. Chaff and straw would be rendered available to a much greater extent than at present by the application of salt. It would be a most valuable ingredient in the preparation of warm food for stall-fed cattle in the improved system of soiling; and, from my experience of its salutary effects, I should consider the free use of it, as a condiment, the greatest boon the Government could bestow on the husbandman. \* \* \* I consider the advantage from salt, in feeding my stock, on a farm of eight hundred acres, worth about one thousand pounds per annum, would exceed three hundred pounds per annum! (that is, add a third to the annual value of the farm.)

The probable consumption of salt for sheep and cattle may be taken as follows, to wit:

Per annum.	14 lbs. the stone.	Stones.
30,000,000 sheep, -	2 stone each, -	60,000,000
1,421,000 cows, -	6 do. -	8,526,000
2,000,000 young cattle, -	4 do. -	8,000,000
1,100,000 fattening beasts, -	6 do. -	6,600,000
1,200,000 draught cattle, -	4 do. -	4,800,000
300,000 colts and saddle horses, -	3 do. -	900,000
1,200,000 horses, -	not estimated,	88,826,000

N. B. 14 pounds 1 stone, 4 stones 1 bushel, 4 bushels 1 cwt.

☞ The English bushel of salt is 56 lbs.

## EXTRACT.

6. *Lord Kenyon's evidence before the committee.*—By the information which I have been able to collect, I am induced to consider salt, when sparingly applied, as an admirable manure, especially for fallows and arable land; and, when mixed up with soil out of gutters, or refuse dirt or ashes, to be very valuable also on grass lands. My own experience convinces me that it is very powerful in destroying vegetation if laid on too thick, having put a large quantity of refuse salt on about one-fourth of an acre of land, which, after two years, still remains quite bare. A land surveyor of high character in my neighborhood, considers that the use of salt would be likely to be very valuable in destroying the slug, wire worm, snail, &c. which often destroy whole crops. He also remembers that salt was used largely in the neighborhood of the Higher and Lower Wiches in Cheshire, before the duties were raised to their present height. With respect to its value for cattle, horses, and sheep, I am informed that it is very highly thought of, both as nutriment, and as used medicinally, internally and externally. Its value also is extremely well known for rendering bad and ill-gotten hay more nourishing and more palatable to cattle than even good hay.

## EXTRACT.

7. *Evidence of Mr. Kingston.*—In reply to your queries, as an agriculturist, I have no hesitation in saying that salt, if freed from duty, would become one of the most useful and general articles of manure that ever was thought of, if properly composed, by mixing it with mud of any kind—the cleanings of ditches and ponds, the surface of coarse ground thrown into heaps to rot, blubber, &c. I

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am also persuaded, that if it could be afforded to be sprinkled on the layers of hay, when making into the rick, in catching weather, it would prevent its heating and getting mouldy. I had once some small cattle tied up to fatten, which did not thrive, owing, as the bailiff said, to the badness of the hay, of which they wasted more than they ate; but, by sprinkling it with water in which some salt had been dissolved, they returned to eat it greedily. I am free to say, a proper quantity of salt would prevent cattle from being hoven by an excess of green food.

## EXTRACT.

8. *Mr. Thomas Bourne's examination.*—The committee understand you are a merchant, residing at Liverpool? I am.

Can you speak as to the probable effect of the repeal of the salt duties on your trade?

It would be a good thing, in my opinion, for the country at large, and also the manufactures.

Have you any knowledge of its being used in food for animals?

Yes, to horses in particular.

Has it a good effect?

Yes.

Then do you not suppose, if the restrictions were taken off, it would come into more general use among the farmers, for stock of all kinds?

It would in that instance; we used to have five horses in our rock salt mine, and those horses always appeared in good condition, though very much worked.

Were they liable to less disorders than those out of the mine?

Yes; much less.

Do you happen to know whether they were in the practice at that time of receiving salt with their food?

Yes; to my knowledge they were.

In what quantity?

About a handful to a quartern of oats.

## EXTRACT.

9. *Evidence of Mr. W. Horne.*—There are very few farmers who are not aware of the importance of salt in preserving hay, and restoring it when damaged; many of those whom I have conversed with on the subject, have used it for these purposes, and it would generally be resorted to, to the extent of ten or fifteen pounds to the ton of hay, if the duties on salt were repealed. Lord Somerville has furnished most satisfactory information on this subject; and I know, from respectable authority, that it is a common practice in the United States of America to sprinkle salt upon hay when forming it into ricks. We also learn from Lord Somerville, that Mr. Darké, of Breckdon, one of the most celebrated graziers in the kingdom, mixed salt with his flooded mouldy hay, and that his Hereford oxen did better on it than others on the best hay he had; and he was convinced the hay had all its good effects from the salt. \* \* \* \* I have learnt from Mr. Sutton, of Eaton, in Cheshire, that he would give thirty tons (120 bushels, of 56 pounds each,) of salt a year to his cattle, being fifty cows, if the duty were repealed. \* \* \* \* In many parts of the United States of America, salt is generally given to cattle.

The excellent condition of the horses in the rock-pits of Cheshire, may be adduced in favor of its benefit in fattening cattle and keeping them in health. Many counted that they can attribute the longevity of their horses to the good effects of salt. Mr. Hadfield, of Liverpool, furnishes an instance in his horse, thirty years old; he constantly gave it rock salt to lick, placing it in his manger. Mr. Young has furnished us, in the annals of agriculture, with a most interesting and satisfactory statement (obtained from the Memoirs of the Royal Academy of Sciences at Paris) on the effect of salt in fattening cattle. From this report it appears, that to the unlimited

use of salt was to be ascribed the circumstance of four times the number of sheep having been reared on a sterile common, than would otherwise have subsisted on it; and that the wool of these flocks is not only the finest in the whole country, but bears the highest price of any in France. The fineness of the wool of the Spanish sheep is also attributed, in a great measure, to the free use of salt. It is not, therefore, I presume, an extraordinary position to say, that, by a proper use of common salt, the same quantity of forage might, on many occasions, be made to go twice as far as it could have done, in feeding animals, had the salt been withheld from them!

## EXTRACT.

10. *Mr. Charles G. Cothill, examined.*—What is your profession?

Answer. A bacon and provision merchant, residing in Judd street, Brunswick square.

What is the nature and amount of your business, and how far has it been affected by the salt duties?

Answer. About fifty years ago my father established a manufactory in Vine street, and expended £10,000 in adapting the premises for the curing of bacon and the salting of pork. Our annual returns were about £50,000: it is now diminished to less than £1,000 annually, in consequence, as I apprehend, of the very high duties on salt, as our trade has diminished progressively as those duties have increased.

Do you not consider that the breed of hogs has also diminished, in consequence of this increase of duty on salt?

Answer. Very materially; and, as a further proof of what I state, we had a very extensive trade of £200,000 a year in hogs; now not £10,000.

What effect, in your opinion, would a great reduction of the salt duties produce in your business?

Answer. I conceive it would restore our trade: we should then be able to supply the West India markets, and other colonies, with salted pork, cheaper and better than any other country.

What is the quantity of salt used upon 100 weight of pork, to make bacon?

Answer. In a manufactory of bacon, about 12 pounds; to cure a small quantity, about 17 or 18.

## EXTRACT.

11. *Testimony of Sir Thomas Bernard.*—I ventured to suggest that a tax on salt was fundamentally wrong in principle, because it presses most on the class least able to bear the weight—because of its immoral tendency—and because it deprives the nation of benefits, beyond measure greater than the whole produce of the impost. The salt duties are about a million and a half sterling per annum, (about seven millions of dollars.) The poor use most salt in proportion to their wealth; a cottager in the country ten to one in proportion to a nobleman in town. But the benefits of which the nation is deprived by the salt duties, are not easily appreciated, or even numbered. In agriculture and rural economy alone, the loss in feeding cattle, sheep, and hogs—in restoring damaged provender—in manure, and in the effect on wages, may, without extravagance, be supposed to exceed the whole value of the tax. Equal, perhaps, would be the gain to our manufacturers of woollen, linen, glass, earthenware, soap, &c. &c. &c. by the unrestrained use of muriate and carbonate of soda and muriatic acid, of which our salt mines and ocean afford supplies absolutely inexhaustible.

Mr. B. having read, or stated, these extracts, to show the use of salt in agriculture, said there were many other witnesses examined, to prove that alum salt, which the English usually called bay salt, because it was made by solar evaporation, out of sea water in the bay of Biscay, and other bays, was indispensable to the curing of provisions, for long keeping, or for exportation, other articles

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connected with agriculture, as cheese, butter, bacon, pickled beef, and pickled pork; and that the English Government permitted alum salt, under the name of bay salt, to be imported both into England and Ireland duty free, for these purposes, even when the domestic manufacture of common salt in England far exceeded the home demand, and furnished millions of bushels for exportation. He also stated that the committee of the House of Commons had examined the first physicians of Great Britain, to prove the effect of a deficiency of salt in the provisions of the poor on their health, and that these physicians uniformly testified that many diseases of the poor, and especially in children, were the effect of using vegetables not sufficiently salted, and fish and meat not sufficiently cured. He also stated that the committee had extended their examination to the use of salt in various manufactories, and had established, by proof, that a variety of useful manufactures required the abolition of the salt duty. On this point, he read extracts from the examination of Samuel Parkes, Esq. an eminent chemist of London, as follows:

## EXTRACT.

12. *Examination of Samuel Parkes.*—What is your profession?

I am proprietor of the chemical works in Goswell street, London, and of other chemical works in Maiden lane, Islington.

Can you acquaint the committee what are the manufactures most affected by the salt laws?

The manufactures of mineral alkali, crystalized soda, muriatic acid, hard soap, distinguished from soft soap, Glauber salt, Epsom salt, magnesia, and sal ammoniac, are all materially affected by the duty on salt; but as common salt, or one or other of the component parts of common salt, is made use of in the composition of a great variety of articles that are employed in our manufactures, it is difficult to answer that question with precision. \* \* Respecting soap, I have only to observe, that common salt is absolutely necessary for the manufacture of hard soap; for however plentifully potash may be produced, large quantities of common salt must be employed with it, or the soap will be only temporarily hard; it will have no lasting consistence. \* \* Salt is employed largely in the preparation and manufacture of a great number of other articles that might be enumerated; and in a short time I have no doubt they would all be benefited by the reduction of the duty on salt.

How does the price of salt affect the soap boilers?

As it affects all other trades in which salt is employed.

State the way in which it affects them.

The cheaper it is, the cheaper they will have it if they buy it.

Do you know any other (manufacturing) purposes for salt?

Yes: it is used in very large quantities by dyers, when it can be had cheap; and in a great variety of other ways.

With respect to the salting of hides, I learn from further inquiry, that the butcher usually applies five pounds of salt to every ox or cow hide which he has occasion to lay by, or to send to the tanner at a distance.

Crystalized soda (made of salt,) is much used in washing. Four hundred tons are annually made at the Long Benton works only.

You have stated that, during the last six or seven years, it has increased from one to four hundred tons.

Yes.

This at the Long Benton works only?

Yes.

Which is made from salt duty free?

Yes. They have an exclusive privilege.

When Mr. B. had finished reading these extracts, and expressed his regret that, out of seventy witnesses and four hundred folio pages of testimony, he could read no

more without encroaching too much on the time of the Senate, he said he would introduce the testimony of some American witnesses to the same points. He had seen the statements of the English witnesses last winter; and, being desirous to hear what Americans would say on the same subject, he had, in the course of the last summer, addressed certain queries to some friends and acquaintances in the Western States, and had received from many of them communications of so much interest and value, that he should lay them before the Senate; and, first, would exhibit the queries for the better understanding of the answers. The names of his correspondents, he said, would be known to the members of the Senate from the States in which they reside; some will be known to the Senators from many States; and some to the whole body of the Senate.

*Queries on the state of the salt trade in the Western States.*

1. Whether the trade in salt is monopolized? and, if so, at what works? and over how many States do the sales of these monopolists extend?

2. The practices of the monopolists, if any, to enhance the price of salt, and to prevent competition?

3. The prices of domestic and foreign salt in your neighborhood, and the freight of foreign salt from New Orleans?

4. Whether the monopolists have established depots of salt in different States, and appointed agents to sell their salt, and restricted the sales of each depot to its district? How far are the depots apart in your State?

5. Whether the salt manufacturers have entered into agreements with the monopolizers to restrict the quantity of salt made at the works? to confine the sales to the monopolists? and to stop working wells and furnaces for pay? The meaning of the phrase "dead wells," and the rent of such wells?

6. Whether salt is sold in your neighborhood by weight or measure? If by weight, how many pounds are allowed to the bushel? and how much a weighed bushel measures?

7. In selling by the barrel, is due allowance made for the weight of the barrel, and for the loss of salt in drying? If not, what is the difference between the real and nominal quantity in the barrel?

8. Whether the monopolists sell for money, or country produce? for ready pay, or upon credit? and whether the price is higher or lower since the monopoly?

9. Do the monopolists rise and fall in their prices according to the presence or absence of competition? and what salt competes with them?

10. Do they realize great gains?

11. Whether the domestic salt is fit for pickling beef and pork, for curing bacon, and preserving butter, for exportation, or consumption in the South, or long keeping?

12. Whether beef and pork, put in common salt, will be received for the use of the army or navy?

13. The necessity and expense of repacking beef and pork in alum salt, in New Orleans, which has been put up in domestic salt?

14. The necessity and advantage of giving salt to horses, cattle, sheep, and hogs? Whether salt is not indispensable to stock in the Western States? Whether there is not a great difference between inland and maritime States in this respect? The reason of that difference? How much salt per head, and how often per week or month ought it to be given to each kind of stock? and whether the farmers in your section of the country are prevented, by the high price and scarcity of salt, from giving as much to their stock as they need?

15. The use and advantage of salt in preserving hay, fodder, and clover? In restoring them, after being damaged by wet?

*St. Louis, July, 1830.*

SENATE.]

Duty on Alum Salt.

[FEB. 8, 1831.]

*Communication from G. T. C. McCLANNAHAN, Esq. of Jackson county, North Alabama, October, 1830.*

Your first query—the trade of salt is entirely monopolized here by James White, of the Holston salt works, in Virginia. I cannot exactly tell to what States these works furnish salt, but it is to be supposed to the western parts of Virginia, eastern part of Tennessee, a part of North Carolina, the northern part of Georgia, North Alabama, and some in South Alabama, &c. &c.

Query 2d—Colonel J. White has a depot at this place, a mile and a half from Tennessee river, down which stream he boats his salt. And if any person else brings salt here to sell, they immediately undersell that person and ruin him. The people sometimes get their salt from Nashville, when they have a convenience of doing so, and it comes much cheaper, after paying land carriage one hundred and thirty miles, than White's salt; but no person dares to compete with him here; because he can, at his will, undersell any person who pays a land carriage of one hundred and thirty miles; and therefore instantly break them up. One thing is yet to be told, which will convince any man of the sin and oppression of this monopolizing system. This same James White will carry his salt by us down to Ditto's landing, ten miles below Huntsville, haul it out to Winchester, Tennessee, which is fifty-five miles of land carriage, and sell it there so much lower than he will here on the river take it out of his boats, that some of the planters, who are able to take their wagons and cross a very bad mountain, (part of the Cumberland,) haul their salt over from Winchester, which is forty-five miles from this place. Is this not oppressive to the poor? Would not this governmental monopolist wring from the distressed orphan, widow, and war-worn soldier, all their earthly sustenance? And yet the Congress of the United States—this boasted land of liberty and equal laws, countenances such oppressive acts. Why does Mr. White not sell as low here on the river as at Winchester, after carrying his salt one hundred and twenty miles, fifty-five by land, and that, too, the very same salt? The answer is obvious. At Winchester there is some competition; it is not so far from Nashville, where foreign salt may be obtained. And this is why he sells it lower there than at this place.

We are here fenced in with almost impassable mountains, at a great distance from any commercial depot, and without the means of shunning the exorbitant exactions of these vampyres, who take the bread from the mouths of our children with the calculating coldness of an Arab; and these acts are legalized by a Congress of freemen. We are glad to hear the stern voice of indignation at this oppression, uttered by some of the patriotic republicans of that body; and we should glory in being among the most persecuted victims, if by that means this most pernicious system of monopoly could be overturned.

Query 3d—We have no foreign salt here for sale; two years ago some gentlemen brought a few bushels from Nashville, and sold it for one dollar and eighty-seven and a half cents per fifty pounds, underselling the salt gentlemen here at that time. The domestic salt has got lower than it was four years ago. Then it was two dollars and fifty cents, now one dollar and eighty-seven cents to two dollars.

The freight from New Orleans to Nashville is one cent per pound, as I am informed by a merchant of this place, and from Nashville to this place one and a quarter cents per pound.

4. There is a depot here, and another at Ditto's landing, as I am told, for selling salt. These places are about fifty-five miles apart by land. The remaining part of the question I do not know any thing about.

5. Colonel White, as I have been informed by good authority, leased the Preston salt works, in what is called New Virginia, for nine or twelve thousand dollars annu-

ally; but I am further informed that the lease is out, and the works are to go into active operation to compete with White, he having let them lie idle heretofore; these are "dead wells," but the number of dead wells he has I am unable to inform you.

6. Salt is sold here by weight, fifty pounds to the bushel; and fifty pounds (the bushel) of the salt which I tried, (without pressing,) measured 1,188<sup>505215</sup>/<sub>1000000</sub> solid inches, making 4 gallons 1<sup>4832</sup>/<sub>1000000</sub> quarts, dry measure, which is but very little over half a measured bushel. Therefore, when salt is two dollars the fifty pounds, we have to pay at the rate of three dollars and sixty-six and a half cents the measured bushel. This is oppression in a free country—this is the fruit of the tariff.

7. In selling by the barrel, the weight of the barrel, and the net weight of salt, is sometimes, and most commonly, placed on the barrel; but the weight of the barrel is marked much less than its real weight.

They make no deduction for the drying of the salt. One barrel I particularly weighed out, and it lost twenty pounds; and I am credibly informed that some have lost as much as fifty.

8. The monopolists here sell for money, or cotton at the cash price, which is the same thing as money. They do not credit their salt. There is always two prices for cotton here—a cash and discount price. Merchants, in taking in cotton for their accounts, give more for it than they will in money; and this is called the discount price. The salt gentlemen sell their salt for cotton, at the cash price. The remaining part of the query I know nothing about.

9. The monopolists have fallen here, since they find that people would go to Nashville for their salt, if they did not. But they know at what price to keep it up; they know the planters cannot take the trouble to go one hundred and thirty miles to Nashville, to get a little salt; and they know that no person dares to compete with them, as they could instantly reduce the price of their salt, and thereby ruin their competitor.

10. They certainly must realize great gains, or they would not give nine or twelve thousand dollars annually for one manufactory, to let it lie idle. Why does not Congress lease all the salt works in the United States, and let them lie idle, and then knock the duty off of salt, if they wish to encourage the manufacture of salt, by filling the pockets of the manufacturers? It would be much better for the people. They would be great gainers by purchasing the salt works, and demolishing them, or letting them out at a small rate, and then striking the duty from salt.

The remaining queries, I am in hopes, will find abler persons to answer them than I.

*Communication from a meeting of the citizens of Madison county, Alabama, 8th of November, 1830, the subject proposed by Dr. William H. Glascock, and authenticated by the signatures of Thomas Miller, President, and Charles A. Jones, Secretary.*

Answer to 1st. The salt consumed here is almost exclusively obtained from Col. James White's manufactory, of Virginia, and sold by his agents in East Tennessee, a part of North Alabama, and West Tennessee.

To the 2d. We can give no definitive answer.

3d. The price of domestic salt is one dollar and twenty-five cents per bushel, by the barrel, or one dollar and seventy-five cents by the single bushel. Foreign salt sells at about the same. The freight of salt, from New Orleans to Huntsville, is about one cent and three-fourths per pound.

4th. Colonel White has salt deposited in different parts of this State, and others, at various distances from each other, say ten to fifteen miles.

5th. Preston's works were for some time discontinued for—say ten thousand dollars per annum.

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*Duty on Alum Salt.*

[SENATE.]

6th. Universally sold by weight, allowing fifty pounds to the bushel; the measured bushel will weigh from seventy to eighty pounds.

7th. When the salt is weighed out of the barrel, it seldom holds out, and frequently loses from five to twenty pounds. We may add, that, however honestly it may have been put up at the works, it is generally brought down in open boats, subject to the winter rains, which damage it more or less; and we know of but one of his agents who sells it any other way than by the marked weight.

8th. Salt is sold for nothing else but ready money.

9th. Salt is sold, high or low, according to competition. The Kenhawa ground alum and Liverpool are brought in but sparingly, which is the only competition.

10th. We believe that White realizes great gains. We are sustained in this opinion, from his carrying it by land twenty-five or thirty miles farther, where he meets with competition, and selling it for less than he does here.

11th. Wholly unfit.

12th. It will not be received for either.

13th. We can give no correct answer.

14th. It is indispensable for stock of all kinds. It is thought they require more in the Western States than maritime States, owing, probably, to the absence of the sea breeze, and vapor impregnated with salt coming from the sea, and alighting on the vegetable matter. Stock of all kinds should be salted twice a week; but, owing to the high price of salt, the stock are probably not salted more than once in two weeks, on an average. From the best accounts, three thousand barrels of salt are consumed annually in Madison county, averaging about six bushels (of fifty pounds) to the barrel. The population being about twenty-seven thousand, gives us an average of thirty-three pounds and one-third to each person. Were those heavy duties taken off, the consumption would be much greater.

15th. Salt is thought to be useful in preserving hay, fodder, and clover; each will keep well if sprinkled over with it, though not thoroughly cured when put up. Moreover, our pork is often spoiled from the want of a sufficiency of salt to pack it up in, which we cannot obtain on account of the high price. Thousands, and tens of thousands of pounds are often lost from that circumstance alone. Alum salt would be an immense saving to North Alabama, in that one particular.

*Resolved, therefore, unanimously,* That the delegation from this State, as well as those of our sister States, have our unfeigned thanks for their exertions and co-operation the last session of Congress, with Mr. Benton, in endeavoring to repeal the duty on salt; and that we request our delegation to use their utmost to effect the repeal of a tax so burdensome to us, and of no ultimate advantage to any State.

*Communication from Colonel F. W. Burton, formerly of North Carolina, now of Murfreesborough, Tennessee, dated December 8, 1830.*

Your favor of July last, propounding fifteen queries on the state of the salt trade in the Western States, was received in due time. To the thirteen first of these queries, I am sure that the commercial gentlemen of the country can render a much more correct and satisfactory answer than I can.

To the fourteenth I will observe, that salt is indispensably necessary to the good condition of horses, horned cattle, sheep, and hogs, in the Western States. It is beneficial in the maritime States likewise, and the more so as you recede from the seaboard. The watery constituent parts of the atmosphere on the seaboard take with them salt, which is inhaled by these animals, and thereby they are supplied with that salt which is necessary for the healthful condition of all animals, both granivorous and herbivorous, and to some of those that are carnivorous. The quan-

tity of salt, per head, to each kind of stock, will depend on the food with which they are supplied. If with grain, less; if with herbs, more salt. I am sure, if the price of salt be reduced, the farmers in this section of the country would give their stock a better supply, and that their improvement would be in proportion to the increased quantity given. To err, by an excess, is not to be apprehended.

To the fifteenth query I will remark, that the use of salt, in the preservation of hay, is well expended. And if new mowed hay, or clover, or other grasses, be packed, a layer of hay, and a layer of straw, either wheat, oats, or rye, and a good supply of salt to each layer be added, you make the best of food for horses and cattle.

I approve, very highly, your intention to repeal, if you can, the salt tax, totally and promptly. In this, and all efforts of your useful life, I wish you success.

*Communication from General William Hall, of Sumner county, Tennessee, dated December 8, 1830.*

I received your "queries on the state of the salt trade in the Western States," in due time; and have delayed answering them, only that I might obtain all the information within my reach necessary to a correct reply. The queries will be answered in the order in which they are proposed, Nos. 1, 2, &c., answering to the corresponding numbers in the queries.

1. The salt made at the Kenhawa works, from whence a large portion of the supply for this State, Ohio, Kentucky, Indiana, and Illinois, is obtained, is monopolized.

2. The monopolists have depots and agents in the different States, supplied by them, who are required to account quarterly for sales, which are made for cash, and at prices fixed by the monopolists.

3. The prices of domestic and foreign salt vary from seventy to one hundred cents per bushel of fifty pounds. Freight from New Orleans may be had at fifty cents per hundred pounds.

4. Answered in No. 2.

5. I have not been able to obtain any satisfactory information as to this query.

6. Salt is sold in this State, and throughout the Western country, by weight. The measured bushel weighs from twenty to twenty-five pounds more than the weighed bushel.

7. An allowance is made for the weight of the barrel, though none for the loss of salt in drying.

8. Is answered, in part, previously. The price is higher since the monopoly.

9. The price of salt is regulated by the quantity in market. The quantity of foreign, or other domestic salt, brought to this market, is inconsiderable.

10. The monopolists realize great gains.

11. Although Kenhawa salt is very superior to any other domestic salt brought to this market, I am informed that nearly all the beef and pork from the Western country is repacked in foreign salt, either for shipment, or for the army or navy.

12. See No. 11.

13. I am not informed as to the price of repacking beef or pork which has been put up in domestic salt.

14. The necessity and advantage of giving salt to stock of every kind is universally admitted. It is indispensable in the Western States, and ought to be given to all kinds of stock about once a week, and to each head of horses or cattle from two to four ounces at a time, and less than half that quantity to sheep or hogs, though farmers in this section are prevented from giving their stock the necessary quantum of salt, owing to the high price of the article.

15. The use and advantage of salt in preserving of hay, fodder, and clover, is admitted by all practical farmers, although but few avail themselves of the advantage, in consequence of the scarcity and high price of salt.



SENATE.]

*Duty on Alum Salt.*

[FEB. 8, 1831.]

*Communication from Lieutenant Governor Breathitt, of Kentucky, dated Russellville, Nov. 16, 1830.*

My information will not enable me to answer your favor on the state of the salt trade in detail.

From the general opinion on the subject, there is no doubt there was, during the last year, an extensive salt monopoly supplied from the Kenhawa works. Depots were had principally on the watercourses for salt, where it was vended by their agents, sometimes on a credit of four or six months. Whether it continues the present season, I am not advised. Those depots extended to Tennessee. Sales were made for money. There is but little foreign salt brought into this neighborhood: I cannot, therefore, state the difference in price. This neighborhood is supplied from the Illinois saline, and the Kenhawa salt from the latter is preferred to preserve meat. It is not so white and clean as that from the saline. It is usually sold by weight—50 lbs. to the bushel, when sold by the barrel. The tare of the barrel is taken off; and the salt is generally weighed at the time of sale. It is, however, sometimes otherwise. About this time last year, the common price, at this place, was one dollar per bushel; now, it may be purchased at seventy-five cents. There is no doubt that salt is indispensable for the use of stock, and particularly in this country. Much stock has been raised upon the grazing the forest affords, and if they are furnished plentifully with salt, they are fat. Hence the necessity of its being as cheap as possible, and because, also, of its universal use by all. I was pleased at the reduction of the duties last session on coffee, tea, molasses, and salt. I should be pleased, however, to see the duties retained on manufactured articles, so that our own manufactories may enter into competition with foreign ones, and make a reasonable profit. I would not have them to have unreasonable profit; then it would be a tax upon one portion for the benefit of the other. The point to stop at is one of difficulty, and requires great experience and much research.

I should be pleased to hear from you occasionally.

*Statement of the Hon. Mr. Lyon, of Kentucky.*

That, being a member of a mercantile house which received a quantity of salt from the Kenhawa Salt Company, to sell on commission, in the years 1826-27, with instructions to sell at the original mark or lick weight, finding many of the barrels greatly deficient in weight, varying from 10 to 20 per cent., they reweighed, and sold a quantity at the real weight; that, when the agent of the company came on, he was dissatisfied, and said it was their custom to sell elsewhere at the original mark, and that it must be so sold there, which they refused to do. The agency, and the salt on hand, were transferred to other hands; and that he has great reason to believe the necessities of the people, in many instances, compelled them to purchase the deficient barrels at their marked weight.

Also, that, being in company with the Hon. Mr. Benton, of the Senate, in ascending the Ohio from Cincinnati, last fall, on board the steamboat Emigrant, said to belong to, and be in the employ of, the Kenhawa Salt Company, which was towing a keel-boat to Maysville, Kentucky, loaded with alum or foreign salt, and delivered there for the purpose of salting pork in that part of Kentucky.

Feb. 1830.

*Communication from General Milroy, of Delphi, Indiana, dated Nov. 25, 1830.*

I received your letter requesting information relative to the salt trade in this country. My limited acquaintance with mercantile business will enable me to say but little from my own knowledge on the subject. I can say, however, that the belief is universal, and uncontradicted in this part of the country, that agents employed by the salt

manufacturers furnish exclusively the supply of that article for the valley of the Wabash; and that none is permitted to be vended by others, so far as can be prevented by them; and that those agents are regulated by fixed prices, under which they may not sell, but can raise the price in proportion to the demand. It is also believed that a scarcity of salt is frequently occasioned by the inadequacy of the manufactories to produce sufficient supplies, or that those monopolists hoard it up for the purpose of extorting exorbitant prices; neither of which causes would operate to produce the scarcity and high price so oppressive to the West, was the salt trade left open to the natural course of competition.

The monopoly of the salt trade is notorious, and is one of the greatest grievances to be complained of in the West; and it is believed that the unrestricted importation of alum salt is, perhaps, the only method which can be adopted effectually to break it down, unless Congress should think proper to declare it a criminal offence to attempt a monopoly of any article of necessary consumption, as the British Parliament has done, and render such offence punishable by fine and imprisonment, which even would not be so effectual.

It will not be disputed but that a supply of alum salt is necessary in the West, even if the domestic salt was obtainable unembarrassed by monopoly, from its superior qualities in the preservation of beef and pork in a southern market, where we must of necessity send our surplus of those articles. It is believed by stock raisers, that a much larger quantity of salt is necessary for stock in the Western than in the Atlantic States, owing, doubtless, to the nature of the food on which they are subsisted, and the diseases to which they are subject.

I should have been much gratified to have been able to furnish you information on all the points on which you request it, and should have done it most cheerfully had I been in possession of it. Not doubting, however, but that the method you have taken will elicit it in abundance, I shall, therefore, rest satisfied, anxiously desiring the successful result of your efforts to repeal the salt tax entirely, concurring with you in opinion that it is the best service that can be rendered to the West next to the graduation of the price of public lands: in both of which great Western measures, you have the concurrence of a vast majority of the West most ardently wishing you success.

*Communication from General Tipton, of Indiana, dated Logansport, Indiana, Nov. 24, 1830.*

Your printed letter of July last has been duly received, and I have made strict inquiry of merchants, and other gentlemen of intelligence of this vicinity, in relation to the salt monopoly. From facts collected from them, and some within my own knowledge, I have no hesitation in saying that there is, and has been for years, a monopoly of that article, to the great injury of the poorer class of the people of Indiana.

Deposits for the sale of salt are established along the Ohio and the Wabash rivers, at from thirty to forty miles from each other, by monopolists from Kenhawa, in Virginia, and from Kentucky. One agent of these monopolists is at this village; another at Lafayette, forty miles below, who rise or fall in their prices according to the competition they meet, and, by this means, oppress the poor, and amass wealth to themselves to a very large amount per annum.

The salt manufactured at the wells at Kenhawa, and in Kentucky, will not preserve pork in the Southern climate. In the winter of 1822 I descended the rivers to New Orleans, with a quantity of pork put up with salt made at the wells of these monopolists. Soon after my arrival at New Orleans, I was compelled to purchase Turk's Island salt, and repack my pork; thereby incurring an expense of one hundred and fifty dollars.

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Duty on Alum Salt.

[SENATE.]

I have no doubt that it would be of great benefit to Indiana to repeal the law levying a duty on foreign salt.

*Communication from J. G. Read, Esq. member of the Senate in the State of Indiana, dated Washington County, Nov. 30, 1830.*

I received yours of July last, and am sorry that it is not in my power to give you a more full account of the subject matter therein contained. Relative to the act of last winter reducing the duty on salt, I have only to say that, in this section, it met with almost universal satisfaction, and a great anxiety is expressed that the entire duty be taken off this winter.

I now proceed to answer, in a brief and concise manner, a few of the queries propounded by you.

1st. "Whether the trade," &c.—It is, but at what works particularly I do not know. The monopoly extends throughout this State, and, I am informed, generally throughout the Western States.

3d. "The price," &c.—Domestic salt is \$1 25; foreign \$1 50. The freight from New Orleans is one dollar per hundred.

4th. "Whether," &c.—They have; the depots are generally from twenty to thirty miles.

6th. "Whether salt," &c.—It is sold by weight, 50 lbs. to the bushel; a weighed bushel will not measure more than three pecks.

8th. "Whether," &c.—They sell only for cash in hand. The price is higher since the monopoly.

9th. "Do the," &c.—I do not know, but presume they do. Foreign salt competes with them.

11th. "Whether," &c.—It is not.

12th. "The expense," &c.—Some few years ago, I had a number of barrels repacked in New Orleans, which had been put up in domestic salt: it cost me \$1 12½ per barrel, and 12½ cents for each hoop that was furnished in the place of those that got broken in the process. I presume the price is nearly the same yet.

14th. "The necessity," &c.—Salt to stock in this country is of great importance; without it, but few could be raised. It prevents many disorders, &c.; and many farmers here are prevented, from the high price and scarcity of salt, to give them what they need.

15th. "The use," &c.—It is of great use. It is found to be an advantage of at least 50 per cent. to hay, particularly prairie hay, that is of little or no use without salt, is found to be almost equal to fodder when properly put up in salt.

*Communication from Gen. W. H. Harrison, of Ohio, dated Washington City, Feb. 5, 1831.*

I have always supposed, and every year's experience confirms me in the opinion, that the duty on salt (at least the high rate of duty lately paid) was injurious to the interest of agriculture in that part of the Western country in which I reside. One of our staples, and the one which I believe yields the most profit to the farmer, is pork. The increase of its manufacture (if I may so call it, meaning the preparation of it in barrels for exportation) is altogether astonishing. It is believed that, in Cincinnati alone, there were slaughtered and packed this year one hundred thousand hogs, averaging at least six dollars, and thus scattering \$600,000 amongst the farmers. It is ascertained, beyond contradiction, that sea salt is necessary to prevent its spoiling in its passage through the hot climate of the Mississippi, in its course to a foreign market, or to our own Atlantic ports. In both of these, our pork, of late years, has acquired a very high character. This is due to the experience which has been acquired in packing, and to the exclusive use, when it can be procured, of sea salt. Before that article was brought to Cincinnati by the steamboats, the pork which was prepared with the Western

salt was always repacked at New Orleans, when sent to a market beyond that place, at an expense of one dollar per barrel, and sometimes with a considerable deduction from the quantity, from the rejection of tainted pieces. And, indeed, after its arrival at the foreign market, it brought a much less price than the pork of the Atlantic States, which had been cured with sea salt. From these facts, it must be evident, that, in proportion to the abundance and the cheapness of sea salt in the city of Cincinnati, the price of pork must, in a great measure, be governed, and the price in that great mart governs it in the surrounding States.

In the year 1826 or '7, the pork market opened in Cincinnati tolerably well; but the pork dealers from the Atlantic cities, finding a great deficiency of sea salt, and that at a very high price, refused to purchase, and the article fell to \$2 and \$2 50 per hundred.

The objection, in the Western country, that has been urged against abolishing or reducing the duty on salt, is, the apprehension that it may destroy the Western manufacturing of that article. Against the probability of this occurrence is the fact of the advance of price in the domestic article of from seventy-five to one hundred per centum in the course of six or seven years. I am not able to say what is the cost of manufacturing the domestic article at the several works in the Western country. I have understood, and believe, that from thirty to thirty-five cents was considered a fair price for it in Cincinnati some years ago. It is not now sold lower than fifty cents; and, for some time in December last, sixty-two and a half cents per bushel of 50 lbs. was charged for it.

I will add the further fact against the successful competition of the imported with the Western salt for domestic purposes, for which the latter is equally good with the former, that the salting of pork commencing in the beginning of December, the salt must be imported in the spring which is intended to supply the market—the usually low state of the rivers in the summer and fall preventing the navigation in these seasons. The investment of money, therefore, by the merchant in the article must be made at least six months before he can effect a sale of it.

*Communication from John C. Webb, Esq. of Missouri, dated Cape Girardeau, county of Jackson, November 24, 1830.*

I saw in the Jackson Mercury, August 30, a request of yours to the citizens of the West for information or answers to several queries on the article of salt. Considering myself interested in the matter, I shall endeavor to answer them so far as my own knowledge of the matter extends.

To the first query I know but little of myself further than this: there are some merchants amongst us that have been applied to for salt, and proposed trade in payment; their reply was, they were selling on commission, and could take nothing else but money for it.

The second query I know nothing about.

3d. The price of domestic salt in Jackson, varies from one dollar to one dollar twenty-five cents per fifty pounds, and that weighed with old rusty steelyards that will not preponderate, for eight or ten pounds. Foreign salt is never lower than one dollar and twenty-five cents per fifty pounds. Domestic, by the barrel, varies from seventy-five to eighty-seven and a half cents; foreign ditto, one dollar per fifty pounds by the sack, after paying for the weight of the sack, and then adding fifty cents more for the sack. The common freightage from New Orleans to the Cape, from seventy-five cents to one dollar per hundred.

4th. As to this query I know nothing of myself.

5th. This I likewise know nothing about.

6th. This query I have answered as to the weight per

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bushel, only the measured bushel, which, as near as I can say pointed, domestic salt will weigh from sixty-five to seventy, foreign ditto, from seventy-five to eighty-five.

7th. In selling by the barrel, thirty pounds is allowed for the barrel; if you take it by the nominal quantity, you pay seventy-five cents; but if you have it weighed, eighty-seven and a half cents is most common.

8th. As to the manner of selling, it is for money alone, and that in hand; no produce nor credit in the case will answer.

9th. It appears that there is no competition here; when there is a scarcity it is sure to rise, and plenty never brings it down lower than the above stated prices.

10th. This query I cannot answer.

11th. As to domestic salt they will not receive beef or pork pickled with it, and it does not answer for butter for exportation.

12th. Beef nor pork will not be received in New Orleans if put up in common salt.

13th. If any does go down put up in common salt, it has to be repacked with one bushel of alum salt for each barrel.

14th. I have long experienced the advantage of giving salt to stock of every kind; if I am working my horses, and they fail eating, give them salt or salt and water to drink; I discover it immediately restores them to their appetite, and they perform their labor much better. Through the winter I salt them twice a week, and through the working season ever other day. I find it necessary to salt cattle through the winter once a week, they eat their rough food much better, and look better in the spring; and when the grass and herbs begin to put up, I find it necessary to salt every other day, and then through the summer twice a week, and have always noticed, if I neglected salting one week, my milch cows failed of their milk. I have some neighbors that seldom salt their stock at all, and I take notice that my cattle look as well in the spring as theirs do in the fall. Their reason for not salting they say is, that salt is so dear. Sheep and hogs require salt at any rate once a week through the summer; hogs put up fatten much better by being well salted.

15th. The advantage of salt for damaged hay I know is great. I have seen hay that looked like it was almost entirely spoiled, and when stacked up with salt, cattle eat it clean, and looked well; but salt selling so high as it does, prevents us poor people from having it by us even for the use of our stock and pickling up our meat, as nothing but money will get it. Go to a merchant, and ask if he wants any kind of produce, if he says yes—well, I will bring it at such a day—I want some salt to pickle up my meat, for I have got no money—his reply is, my salt is a cash article; I cannot sell it for produce. Well, I am obliged to have salt; if you will trust me a little while, I will pay you the money for it. His reply then is, I merely bring salt for accommodation; I make nothing on it; I must have the money down, or otherwise, will reply, I am selling on commission, and am obliged to have the money. On these terms I have known men to do without salt until they had suffered considerably for want of that article, unless they could borrow of a neighbor.

Honorable sir, if your interference in Congress can mitigate the matter, it will confer a very requisite favor on our neighborhood.

Mr. B., after reading or referring to these communications, which were given under the authors' names, stated that he had another of very material import which he would read to the Senate, but without the name. He had the less reluctance in doing this, because he had endeavored to give to the agent of the Kenhawa company, who had been in attendance upon the other House during the session, an opportunity to answer. He had communicated the statement to a member of the Committee on Manufactures, whose name he was at liberty to mention, [Mr. J.

S. BARBOUR, of Virginia,] for the express purpose of enabling the agent to answer it before that committee, but who had not availed himself of that opportunity.

*Statement of a citizen of Kenhawa, furnished as anonymous, that he may not compromise his tranquillity, but with the names of the payers and receivers in the "dead well" system; the names being now omitted, as it is not the object of Mr. B. to interfere with individuals, but to expose a system.*

"Dead wells are now common at the Kenhawa salines, and are giving to the place a dilapidated and melancholy appearance, and doing a real injury to the country. There are many of these dead wells, and monopolizers pay the owner for letting them remain idle. \* \* \* and \* \* \* receive about \$1,500 per annum for two dead wells. \* \* \* receives about \$3,000 per annum for one. \* \* \* about \$1,500 per annum for another. Many others receive less or greater sums upon the same terms. Besides dead wells, there are also unborn wells, whose owners are paid for not letting them be dug. I know several of this kind. \* \* \* receives \$1,250 per annum not to dig a well on his land; \* \* \* receives \$1,500 annually on the same terms; \* \* \* receives \$2,500 per annum in the same way; and I have no doubt, many others, and it is all a thing of notoriety in the neighborhood. Before the monopoly, the price of salt was about a shilling a bushel, as it is called, and as often under as above that price, and it could be got for any kind of trade; since the monopoly, it is fifty cents cash, and none will be sold for retail to the people of the States, except to those who will bind themselves to avoid competition with the monopolizers at their depots. The company that monopolize the works are the chief shippers, and through their agents retail to the people in most of the Western States, fixing their own price, their own weight, and the quantity which each State is to have, except so far as they are interfered with by alum salt from New Orleans."

After reading, or referring to the extracts of evidence, taken before the Committee of the British House of Commons on the salt duties, and reading or stating the communications received by himself from citizens of the Western States, Mr. BEXTON proceeded to make copious and extended remarks upon the uses of salt in agriculture and manufactures; the difference between the impure and inferior salt made by boiling well water, and the clean, pure and crystallized salt made by the rays of the sun, in hot climates, out of the water of the sea; the variety of uses to which the well water salt was wholly unfit and inadequate; and the cruel injustice, on the part of the Federal Government, of expelling the pure salt from the country by an oppressive tax, which might otherwise be had both cheap and abundant, for the purpose of compelling them to use the inferior salt at an enormous and unconscionable price.

1. He remarked on the value of salt to stock, as proved by both the English and American testimony. It was proved that the health of all animals was preserved by it; and with this preservation of health, ensued all the advantages of increased growth and fattening, prolonged life, multiplied offspring; and superior flavor to the flesh, the milk, the butter, the cheese, the bacon, beef, and pork, which were made from them. In England, it was computed that the advantage to the stock from all these sources was 25 per cent. per annum. On one farm it was rated at about 33½ per cent.; and the aggregate advantage, or rather the aggregate loss to the farmers for want of salt, was stated to exceed the annual amount of the tax, which was about 7,000,000 dollars.

2. He remarked on the necessity of sun-made salt for butter and cheese. If put up in common salt, the butter soon became rancid, and sold at less than half the price of alum salt butter at New Orleans and in the West Indies.

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He attributed the general inferiority of American cheese to the impure salt which was used in making it; and dwelt upon the articles of cheese and butter as sources of wealth to the stock-raising States, if duly improved by the use of pure salt. He said the exports of the last years had reached the value of \$177,000 per annum; which, though considerable, was a trifle compared to the consumption in our towns, and the export to the Lower Mississippi. He considered the farmers as losing the one-half of their whole sales of butter and cheese, by using artificial salt, made by men, instead of using the natural crystallized salt, made by nature. To the cows on dairy farms, it was proved in England, that half a bushel of salt per annum was necessary; and the milk, butter, and cheese, all were richer and better flavored when that quantity, or more, was given. Common salt would do for the cows to lick; but alum salt was indispensable for butter and cheese that was to be long kept or exported.

3. In the article of bacon he estimated the loss at nearly one-half in using the fire-made salt. Such bacon would not sell for much more than half price in any of our market towns, and could not be carried to the Southern climates, or exported, without danger of spoiling and becoming a total loss. Such bacon was often a drug in the market at New Orleans at two cents a pound, a mere refuse article at that price, while the alum salt bacon was a ready sale at six or eight cents.

4. In pickled pork. For this purpose alum salt was indispensable. The artificial salt would answer no purpose. The poisonous ingredients called slack and bittern, which it contained, corrupted the pork in warm climates, and the soluble nature of the salt itself, by dissolving immediately, brought all the pieces in contact, and made each assist in destroying the other. The crystallized salt, besides being free from slack and bittern, is large in the grain, and so far insoluble that a layer of it remains for years between each piece of meat, and acting as a perpetual preservative. Mr. B. said that bacon might be made, after a fashion, with boiled salt; but pickled pork not at all. For that purpose, the sun made salt was a *sine qua non*. For want of this salt, the Western farmers had got into the general custom of making bacon, whereby they lost about one-third of the product of their hog stock; for the bacon dried and wasted near a third by the time it was sold, and would then sell for no more than pickled pork, which lost not an ounce in weight from the day it was put into the barrel till sold. A difference of one-third to be saved in the annual product of the hog stock, would be immense to the farmers; and this difference would be saved by the repeal of the duty on alum salt.

5. In pickled beef. For this purpose alum salt is absolutely indispensable. Beef could not be pickled without it; and, therefore, to find a market, the beef cattle were driven off upon the hoof. Mr. B. pronounced it to be a losing business, a most disadvantageous traffic, to any country to drive away its beef cattle to be sold on the hoof. The immediate loss in that operation was nearly one-half the value of the beef, and the whole loss of the hide, tallow, and offal; the consequential loss was, in the purchase of leather and manufactures of leather, and the purchase of soap and candles, and also in the loss of leather, soap, and candles for exportation. Pickled beef in New Orleans was usually from eight to twelve dollars a barrel, which was from four to six cents a pound. The farmers of the West usually sell their cattle at from 1½ to 2½ cents per pound; thus suffering a loss of nearly one-half on the beef; the hide and tallow, which is worth as much as the beef sells for at such rates, being thrown into the bargain, and given away. The disastrous effect of this suicidal business was seen in every town in the West, where foreign hides from South America, foreign leather, boots, shoes, and saddlery, and foreign soap and candles, from Europe and the Atlantic States, were daily exhibited

for sale. Another disastrous consequence, but not so visible to the passing eye, was the loss of all these articles for exportation. The exportation of soap and candles had lately amounted to 912,000 dollars in the year; and of leather, boots, shoes, and saddlery, to 450,000 dollars. These exportations went from the Atlantic cities to the West Indies, and chiefly grew out of the gifts which the Western farmers made of their hides and tallow to the drovers. They were exportations which belonged to the West, not only because it produced the material out of which the manufactured articles were made, but it was the best place for carrying on the manufactory of them on account of the cheapness of provisions, and the facilities of exporting direct to the West Indies.

Mr. B. made a further illustration of the evils of driving beef cattle from the West, in its effect upon the internal navigation and domestic markets of the great valley. The Mississippi river was to the West what the Mediterranean sea was to the Romans; it is *mare nostrum*—our sea—and the steamboats and other boats upon it constitute our navigation. The building of these vessels gives employment to a multitude of useful and respectable mechanics; creates a demand for vast quantities of wood, iron, paints, and glass; furniture of every description; daily supplies of provisions; wood for fuel, now estimated at a million of dollars per annum; and for an immense number of persons to navigate and manage the boats. The aggregate of all these expenditures connected with steamboat building and navigation, was several millions of dollars per annum, and was the most profitable kind of expenditure, for it was carried to the very doors of the people, and delivered into their hands in their own houses. Having drawn the picture of the advantages of steamboat navigation to the West, Mr. B. ventured to make the suggestion that they would be nearly doubled by substituting a change in the beef trade, from driving the cattle on the hoof to the Atlantic cities, to sending the beef pickled to New Orleans and the West Indies. Such a change would open a new and immense head for freight down the river, and a corresponding increase for freight back; for it was of the nature of exports and imports to emulate each other; it would produce diminished prices for under cargo, of which salt would be the chief; and a corresponding increase of every expenditure connected with the construction and navigation of steamboats. He then avowed that this change, and the stupendous benefits resulting from it, depended solely and exclusively upon the free use of alum salt—upon the abolition of the duty upon that article—upon the simple and obvious process of permitting the Western people to use the salt according to their wants and wishes, which God had created for them in all the islands of the Gulf of Mexico. And he ridiculed with contemptuous sarcasm the affected alarms of those who expressed the fear that there would not be salt enough if the domestic manufactories checked their operations. He said it was a fear that there would be a failure of sunshine and sea water.

Having briefly touched upon the important uses of salt in agriculture, and especially for stock and provisions, Mr. B. proceeded to notice the disadvantages under which the farmers of the Western States labored with respect to that article. At the head of the list of these disadvantages, or oppressions, as they might with greater propriety be called, stood the appalling and astounding fact, that the whole salt trade of the West, so far as it depended upon the domestic manufactories, was one vast and cruel monopoly! The amazing fact was proved by a variety of testimony; it was known to every Western Senator present; it was felt at home, in every department of agriculture, by all the farmers of the West. The baleful effects of this horrid monopoly were forcibly depicted by the witnesses whose communications he had read. Double price and scant measure; the whole country distracted, all advanced, and stunted; ready money exacted; wells rented from their

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owners to lie idle; new wells prevented from being dug; overgrown fortunes to the monopolizers, privation, want, and suffering among the people and stock: such was the shocking and revolting picture which these communications presented to the Senate. Mr. B. animadverted in the most indignant terms upon monopolies of every species, and placed the salt monopoly at the head of the abominable and infernal list. He said this very monopoly was one of the causes which brought Charles the First to the block. Queen Elizabeth, though a petticoated tyrant, had the humanity, or rather sagacity, to suppress the salt monopoly, towards the close of her reign; for which act of mercy and condescension the whole Parliament went in a body to thank and bless her as an angel of beneficence. The bigot Stuarts revived it, and paid the forfeiture in the loss of life and kingdom. There had been no monopoly of salt in England since Charles the First had lost his head; the States beyond the Allegany mountains were the only example of that oppression at this time existing in the civilized world. Mr. B. considered the present duty on foreign salt as the father and guardian of this domestic monopoly. He considered it the protector, defender, and supporter of the monopolists. He considered the act of Congress which kept up this duty, as the law which established this monopoly; and denounced such a law, not merely as odious and oppressive, but as a species of impiety and sacrilege, a species of revolt and rebellion against the providence of God, who had created salt, and spread it through the universe, for the use of man and beast, and as the preservative principle of life and health in both. The sea was filled with it, and the sun manufactured it. It came cheap and pure from that manufactory, established by Divine wisdom, and co-extensive with the bounds of the habitable globe. Salt was the preservative principle of the world. Every living animal must have it; every species of food must contain it. Without it, universal death and corruption would ensue. The disciples of Christ were called by their master "the salt of the earth;" and that divine metaphor was intended to convey to the understandings of all people the knowledge of the preservative nature of their mission, a mission which was to save the moral world from corruption, as salt preserves the animal and material world. Laws to prevent any portion of the human race from using the pure and perfect salt made by the rays of the sun out of the waves of the sea, if enacted without a dire necessity, were impious contrivances to frustrate the beneficence of God. A war for self-preservation alone could justify such laws. They had existed in all countries, and had run highest where human liberty was at the lowest ebb. They are now disappearing, vanishing, and falling before the recuperative energies of popular rights. The *gabelle* fell, in France, before the march of revolution. In England, this unnatural tax, after obtaining the monstrous height of fifteen shillings a bushel, sunk and disappeared before the labors of that pre-eminent committee from whose reports a few imperfect and mutilated extracts have been read. The salt tax disappeared from the United States about twenty years ago, during the auspicious administration of the immortal Jefferson. Even Spain, the last country upon earth in which to look for a liberal example, was an instance of the generous use of salt. The United States alone are now presenting the example of keeping up this odious tax, of keeping it up without necessity, of keeping it up for the oppression of the people, for the protection of monopolizers, for the impoverishment and degradation of the West. But let the people not despair. Relief, though out of sight, is sometimes near at hand. The darkest hour of the night is that which precedes the break of day. In England, in 1801, the first attempt of the friends of the people to reduce the salt tax, was followed by the insult and outrage of raising it. The Pitt administration, to punish and intimidate those who propos-

ed the abolition, immediately raised the duty from ten to fifteen shillings a bushel; but they raised the spirit of the people at the same time, and in a few years the whole oppressive burden fell to the earth.

Resulting from this monopoly, thus established and protected, came the present enormous price of salt. Mr. B. begged Senators to recollect the testimony he had read, and reflect in how many places the sum of 75 cents, or a dollar, or a dollar and a quarter, was exacted from the people for about two pecks and a half of inferior, fire-made, artificial salt, imposed upon them under the scandalized name of a bushel. If the duty was off, he would venture to affirm that the price of pure, sun-made, crystallized salt would not exceed a *picailon* for a real bushel at New Orleans, and three or four *picailons* in the central parts of the valley of the Mississippi. His calculation was this: that the import price of this fine salt was, at present, six cents for that of Malta; eight cents for that of Spain and Portugal; nine cents for that of Turk's Island; and that, in the vast increase which the foreign salt trade would assume, and the reduced price of the salt from Turk's Island, (a British possession) in consequence of the direct intercourse with that island, or rather with the five hundred Bahama islands, of which it is the chief, the average price at New Orleans would be six and a quarter cents; freight for salt, as under cargo, was now about one-third of a cent per pound, and would soon be brought by the great boats, during the spring floods, for one-fourth of a cent. Thus, would the price of alum salt, at Louisville, be reduced to about 25 cents a bushel. Low as this would be, a great proportion of the Western farmers would get it on still better terms. Thousands of flat-bottomed boats made without expense, navigated without skill or labor, loaded with every conceivable production of the farm and the forest, and descending from all the confluent streams of the Mississippi, visit New Orleans every winter. The owners are their own factors and commission merchants. They sell out the contents of their boat (which, moored to the levee, and labelled with its contents, serves for warehouse, kitchen, parlor, and bed-room) in the course of the winter months, when they could do but little at home; buy their groceries in the spring, step on board a steamer with their family supplies, and, for six dollars, are at home in eight or ten days, ready to commence the new crop with the return of the vernal season. To all such the acquisition of two or three sacks of pure and perfect salt would be nothing but the exchange of a few loose vegetables, which would have rotted at home.

Mr. B. maintained that the salt tax fell heaviest upon the laboring classes, and upon the poor. They used most salt in proportion to their wealth, and bought at a disadvantage, because they bought in a pinch, in small quantities, at retail prices, raised the money to buy it at a sacrifice, and were most subject to be imposed upon, both as to weight, quality, and price. It was so in England; it is so here. Look at the English testimony! It tells you the tax was harder upon the peasant than the nobleman. Look at the American testimony! It tells you that the people in remote places—the small farmers, remote from great towns, had to pay the highest prices, received the scantiest measure, and suffered most from extortion and imposition. It was in such places, and among such customers, that the weighed bushel of fifty pounds would find ample accommodation for lodging, in a half bushel measure; that the old rusty steelyards were used, that would not preponderate for ten pounds in fifty; that the deficient barrels were obliged to be taken at the marked weight; and that the extortionate prices of one and two dollars for these scant weight bushels, equal to two and four dollars for real measured bushels, and that for well-water salt, impregnated with poisonous ingredients, and only half the strength of sea-water salt, were actually paid by the helpless people, and received by the relentless monopolizers! And yet, in



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the face of these damning facts, in the midst of the cries of these suffering people, there is a scheme on foot, not only to resist the reduction, but to effect the increase of this diabolical tax! to raise it from ten to fifteen cents.

[Here Mr. B. alluded to the bill in the House of Representatives, to increase the salt tax, and thought this bill ought to be proclaimed throughout the West by a herald and a trumpet, to rouse and alarm the people, and to put them on their guard against the dangers it portended.]

Resulting from this monopoly, and the most degrading of its consequences, was the power to allowance and district the country for the consumption of salt. The Western country was districted and allowanced. All the witnesses prove the mortifying fact. Depots are established, and agents appointed to supply each district. No competition is permitted. No competition can come, except from New Orleans, and that in the season of high water. To prevent the fullness of the supply from operating on the highness of the price, the invention of "dead wells" was made, and a multitude of wells, rented from their owners, have been permitted to stand idle. Nay, more; a further exertion of this invention has exhibited the prodigy of wells suppressed—of unborn wells stifled in the womb of the earth—by hiring and paying people not to dig for their salt water! The consequence of these enormities was, stint in the supply, excess in the price. The country was starved for salt, and made to pay double, in many places quadruple its value. The domestic supply is not equal to one-fifth of the demand. The whole quantity made in the United States, as proved by the returns of the salt-makers themselves to the Secretary of the Treasury, does not exceed five millions of bushels; while the consumption of the country would require thirty millions. The whole product of the West, including Western Pennsylvania and the Holston works in Virginia, do not exceed two and a half millions of bushels, weighed bushels; each of which bushel, with a little packing and heaping, would comfortably establish itself in a half bushel measure.

Mr. B. believed that the stock alone of the United States would require twenty millions of bushels. He bottomed his estimate upon the consumption in England. It was there proved that the stock, independent of the draught horses, and hogs, which had not been included in the estimate, required twenty-two millions of bushels, fifty-six pounds to the bushel, to supply them annually. He felt mortified to know the number of stock in England, for he was speaking of England proper, and not know the number in the United States. He regretted that the return of stock was not included in the census—in the census made by State authority at all events—and especially in the West, where stock constituted so large a proportion of the wealth of the people. In the absence of accurate information, he must proceed upon probable data; and, as the United States was more populous than England, ten times more extensive, and the keeping of stock more easy, he would assume the stock census of England as furnishing, not the criterion of numbers, but the data for calculation; the sheep of the United States being probably one-third, cattle and horses doubtful, and hogs far more numerous. Assuming this calculation for the relative number of stock, the necessity for salt was greater: for the use of green food, and especially wild grass, was more usual in the United States; and this grass was more fresh, or free from saltiness, because, the United States being a continent, and not an island, the saline dews which corrected the freshness of the grass, did not extend to the interior States. Assuming the sheep of the United States to be one-third of the English flock, to wit, ten millions of head, and allowing to each sheep the English supply, of half a pound a week, which made half a bushel a year, and it resulted that the sheep alone of the United States required five millions of bushels of salt per annum! being just as much as the domestic manufacturers need! so that if the popula-

tion of the Union should be thrown on the domestic supply, and the sheep supplied first, there would not be one grain left for the hogs, horses, cattle, people, and the thousand uses beside, for which salt is indispensable! So much for the domestic supply! It had been computed in England that the supply of salt to the sheep was the saving of six hundred thousand head from dying annually; the loss of Western stock for want of salt cannot be estimated. But it is a point for Western farmers to think of. Let each one make the computation for himself, and consider what his annual loss is in cattle, hogs, sheep, and horses, for want of this condiment to their food; this medicine for their health; this attraction against running wild; and then estimate, if he can, the annual aggregate loss of the nine Western States and Territories.

Mr. B. affirmed that the stint of salt was universal in the West; that it extended to all the operations of the farmer; that it even extended to the pots and tables of the poor! He believed that such an instance of stint, for a necessary of life, did not exist among the negroes of the West India islands. He believed that those negroes received from their masters, cruel as many of them were, a larger and better allowance of salt than the average of Western farmers received from the inexorable monopolists. He said the entire West was a stock-raising country. The farmers there, like the patriarchs of old, estimated their wealth, in a great degree, by the number of their flocks and herds. Before the invention of steamboats, this rich vein of wealth was but slightly and imperfectly developed. Want of salt prevented its development. Common salt could not be had in sufficient quantity for salting the stock. Not a pound of alum salt could be had for curing bacon, preserving butter and cheese, and pickling beef and pork. Foreign salt, of no kind, could enter the vast and fertile regions of the West. Freight, up the Mississippi, in keel boats and barges, was seven or eight cents a pound—across the Alleghany mountains, in wagons, was as much or more; and then commenced, from hard necessity and from absolute want of alum salt, the pernicious and impoverishing practice of driving off beef cattle on the hoof. But steamboats furnish the means of relieving this necessity, of supplying this want, and of terminating this pernicious practice. They are bringing salt from New Orleans at so low a freight, that, if the duty was off, the price to the purchasers, in the central parts of the Great Valley, and that of the pure sea-made salt, would not exceed twenty-five cents per bushel; while, to those farmers who trade down the river, the price could not exceed three picaillons. This cheap importation of pure salt—this unlearned means of importing it at the one thirty-second part of its former freight, was the greatest blessing of all the great blessings which the wonderful invention of steamboats has conferred upon the West. It was the very thing which was lacking to give full development to her richest vein of wealth—richer than the mines of Mexico and Peru—her stock and provision trade! Providence, of its infinite goodness, and to crown the blessings of the great West, sent this miraculous invention to give us that alone which was wanting, and never could have been got without it; the pure muriate of soda; the natural crystallized salt; the native, unmixed product of the sun and sea; the salt of Divine manufactory; as much superior to artificial fire-made salt as the works of God are superior to the works of man! Upon the dispensation of such a Providence, it was to have been expected that the Federal Legislature, to whom the whole power of regulating foreign commerce had been assigned by the States, whether wisely or not, time, and, above all, the continuance of the salt tax, will show, it was to have been expected that the Federal Legislature (that part of it, at all events, which assumed to be the particular friends of domestic industry) would have given all possible aid to the importation of this Heaven-sent salt. A bounty in favor of the ships

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which brought it, would have rested upon the same constitutional construction, and upon infinitely greater reasons of justice than a bounty in favor of vessels which bring home fish. The greatest exertions might have been expected for the encouragement of this importation. Every reason which the head could conceive, or the tongue could utter, sprung forth in favor of the encouragement; not a single reason that craft and cunning could devise, could be arrayed against it. The whole vocabulary of the "American system" furnished not a word against it: for that system rests upon the basis of making at home, and furnishing to the citizen, the same article, better and cheaper than the imported one! Well, alum salt, which comprehends all crystallized salt, (and all salt made by the sun, and none other, is crystallized,) alum salt is not made in the United States, (a little in the Northeast excepted,) not a pound of it is made in the West, nor any rival to it, nor substitute for it. By consequence, it could not be made cheaper and better at home! The "American system" was for it, instead of being against it, unless it is intended to exclude the industry of the farmer, who raises stock and salts provisions, from the industry to be protected by that system. A bounty might have been expected in favor of every ship that should bring sun-made salt to New Orleans. Instead of that, what have we seen? Federal legislation actually employed to keep this salt away! A hostile and repulsive tax of twenty cents imposed upon every eight cents' worth of this indispensable salt! A requisition upon the ship that brings it, to pay twice and a half its value into the coffers of the Federal Government before that ship is allowed to land it! Bond and security required, when the money cannot be paid down! And this security to be exacted from strangers who have crossed the wide seas to exchange their surplus salt for our surplus provisions! And, in consequence of these heavy and merciless exactions, most of the ships bring stones instead of salt—forced to bring stones by the Federal Government, and realizing the compulsive illustration of the strongest reproach contained in the sacred pages of the Holy Evangelists! They would bring salt for ballast in preference to stones, if the laws would permit them. Many that bring salt, throw it overboard, in the mouth of the Mississippi. When no longer needed for ballast, they throw it into the river, because they are neither able to pay the duty in ready money, nor to give the security which the credit system requires. Is this imagination, or is it reality? It is reality! And no longer ago than the last summer, the troubled waves of the Mississippi, and the dark shades of midnight, were the conscious witnesses of this lamentable fact, of this dire operation of taxing salt out of the land of America! Mr. B. said he had heard of this sacrifice; this new species of immolation, not to propitiate the genius of the river, but to appease the infernal genius of the salt tax, soon after it happened, and had laid it up in his memory for verification. That verification was quickly received; for on his passage to this city, in the month of November last, he fell in at Louisville, Kentucky, with the surveyor and inspector of the port of New Orleans, Major Spotts, formerly of the army, and lately approved by the Senate both as a military and civil officer, and from him received a confirmation of the fact. Two ships, Major Spotts was certain, had thrown their salt overboard; others he suspected of having done so! These ships, thus encountering the risk of forfeiting their cargoes, and incurring all the penalties of violating the revenue laws, in addition to the loss of the salt, because they could neither pay the duties, nor give the security, nor find any body to receive the salt as a gift, with a tax of twenty cents a bushel upon it! At that very moment the whole interior of the West suffering for salt! And for whose benefit are these oppressions practised? For the benefit of a few hundred monopolizers in the West, and a few thousand fishermen in the Northeast! For their benefit, the repeal of

the odious tax is not only resisted, but an increase of the oppression is actually demanded!

Mr. B. drew the line of distinction between good and bad salt. It was a line easy to be drawn, for it was the line between the works of nature and the works of man. All salt that was made by boiling, no matter out of what water, was impure and imperfect; for the agitation and the heat prevented crystallization, and retained the poisonous ingredients called slack and bittern; all salt made by the power of the sun was pure and perfect; all the poisonous ingredients having settled to the bottom, and the salt itself forming into lumps by concretion and crystallization. The artificial salt, made by boiling, is good for many purposes; for salting stock, preserving hay and fodder, for daily use in fresh meat and vegetables; and, by help of much smoke and long drying, will save bacon for family use. The natural, sun-made salt was indispensable to pickling beef and pork, and to curing bacon, butter, and cheese for exportation, or the Southern markets. It was of the tax upon this latter kind of salt that he complained so much; a kind of salt so indispensable to the provision trade of the West, and so impossible to be made by the domestic manufacturers. To this part of the argument he invited, and invoked, and almost defied, the response of his opponents. The fire-made salt would not answer the great purposes of the provision trade. It could not be used by the provision curers, if presented to them as a gift. Sun-made salt alone would answer. It must be had, cost what it may; and a tax upon it was an oppression upon the people, without the possibility of producing a domestic supply of the same article. The domestic salt would not answer! All the testimony proved this great and cardinal fact. He would not recapitulate that testimony; but would refer to the circumstance mentioned by the honorable Mr. Lyon, of the House of Representatives, and of which he, Mr. B., was also witness—that of alum salt delivered at Maysville, in November last. This salt had crossed the Gulf of Mexico. It had ascended the Mississippi, in a ship, to New Orleans; then to Louisville, in a steamboat; then to Maysville, in a keel towed by a steamer. It had traversed a thousand miles of gulf, and nineteen hundred miles of river navigation, to reach its point of delivery; and that point in the immediate neighborhood of the great Kenhawa salt works! there to be employed in salting Kentucky pork for exportation, or Southern consumption! How overwhelming and conclusive the bare annunciation of such a pregnant fact! And that no circumstance might be lacking to complete the power of this impressive argument in favor of foreign salt, the company's own steamboat brought it! Thus making themselves public and unanswerable witnesses to the total inefficacy of their own salt, and the absolute necessity of using the foreign!

Mr. B. insisted that the burthen of the salt tax upon the West was aggravated by contrast; for in the Northeast there were drawbacks, bounties, and allowances which more than indemnified the fishing interest for the proportion of the tax which they paid. They were allowed to draw out of the Treasury, at the end of each year, as much money as had been paid, or supposed to have been paid, for duties on the salt employed in curing fish; and under this system of drawbacks and allowances, upwards of five millions of dollars had already been drawn. The vigilant Secretary of the Treasury [Mr. INGHAM,] had discovered large frauds in this business, say to the amount of fifty thousand dollars in a single year; but the laws were yet in force; and while they continued, the leak from the treasury on this account must still amount to a quarter of a million of dollars per annum. The Western States were allowed nothing in the way of drawback of duty on the beef and pork exported by them. These States, therefore, felt the unmitigated weight of the tax, while to their friends in the Northeast it was actually a money-making business. This was unequal and unjust in the extreme,

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*Duty on Alum Salt.*

[SENATE.]

The constitution declared, and, if it did not, the first principle of equity would declare, that taxes should be equal and uniform throughout the Union. But this equality was destroyed when the tax was refunded to one quarter and not refunded to another. It was the same thing as if, in the law imposing it, the levy of the tax should be by sections, omitting one section entirely from the operation of the levy. It would be better in this case to levy by sections, because it has been proved at the treasury that a certain section draws back more than it pays—more than it would have been exempted from if the levy had not reached it. This business of refunding the salt tax to a part of the community, proves the impolicy of levying it at all: for if it is refunded to a part, justice requires it should be refunded to all; and, if it be refunded to all, where is the sense in levying it? The people of the North-east, with whom salted fish is a predominant food, have a drawback of the duty allowed them; the people of the South and West, with whom salted bacon is a predominant food, have no drawback; and thus the operation of the law is unequal as well as oppressive. The remedy for the whole is to abolish the tax, and all the superstructure of drawbacks, bounties, and allowances, which rest upon it.

The farmers, continued Mr. B., are the class most interested in the abolition of this tax; they feel it to the quick; and he could not allude to that meritorious class of citizens without the deepest feelings of sympathy and concern. They were the soul and body of the country. Their labors supplied all the elements of subsistence to man and beast. Their names were to be found upon every list of contribution to the public service. They were found upon the tax list, the muster roll, the jury panel, the road list, the bridge list, and every other list which exacted the payment of money or the performance of service. There was but one list on which their names were not to be found, and that was the list of office! Farmers and offices seldom get together. Their station in the body politic was, front rank for service, rear rank for reward. Surely, a body of men so numerous, and so meritorious, so ready to do, and to suffer for the Government, and so backward to ask favors from it, ought at least to be uninjured by the Government. Laws should not be made against them, if they are not made for them. Fair play, at least, should be their portion. The "*laissez nous faire*"—"let us alone"—should be their ready granted prayer. Yet, how stands the account with the Federal Government? Their produce loaded with duties in foreign countries—virtually excluded from many of them—by the total failure of Congress to make any attempt to regulate foreign commerce according to the power granted in the constitution, and the declared intention of the States in conferring that power upon Congress! An indispensable ingredient, not only in their wealth, but in their living, and only to be obtained from abroad, loaded with a duty of three times its value, before they can use it at home! The Gulf of Mexico is saturated with the purest salt. Two thousand islands abound with it. The Bahamas alone, about five hundred in number, of which Turk's Island is the chief, lying in the very channel to New Orleans, could glut the valley of the Mississippi at a picailon a bushel. These islanders want our provisions; we want their salt; but the Federal Government gets between the parties, and, by a total neglect of the power to regulate foreign commerce, and a manifest abuse of the power to lay duties, obstructs and prevents the natural and beneficial exchange of commodities to which the wants and superfluities of the respective parties so powerfully attracts, and so urgently invites them. The same with land. The Federal Government has got all the land. Invested with the whole domain by the improvidence of the Southern States, it becomes the dog in the manger, and refuses to let the farmers have for its value what itself cannot use. But, to confine these reflections to the matter in hand. The Gulf of Mexico is

full of salt; the Western farmers want it; they are debarred its use; and that by a Government whose taxes they pay, whose battles they fight, whose burdens they bear, and whose favors they seldom receive. We have a Committee on Agriculture, so styled, at least, whether by way of antithesis was not for him [Mr. B.] to say; certain it was, the name, if not the design, of the committee should have put them at the head of all the measures for the abolition of the salt taxes, and reduction of the price of refuse lands. He felt himself to be doing the business of that committee, and hoped they would soon be found fellow-laborers and co-operators together.

Farmers, and all the departments of agriculture, are the chief sufferers by the salt duty; but they are not the sole sufferers. Manufacturers suffer also; and it was computed by Sir Thomas Bernard, one of the witnesses examined by the committee of the British House of Commons, that the manufactures of England were annually injured to the amount of the tax derived from salt. Various manufactures require this article, either in its proper shape, or as a chemical preparation. The hard soap alone made in England was computed to require two thousand tons of mineral alkali per annum; and this alkali is obtained by a chemical process, either from salt in its proper state, or from the salt contained in barilla and kelp. To procure two thousand tons of alkali must require a much greater number of tons of salt. The barilla only yields seventeen per cent. of alkali, and kelp six per cent. The decomposition of the salt itself is the cheapest mode of procuring the alkali; and this salt is taxed two or three times its value in the United States, so that the Federal Government has actually established a tax upon cleanliness! for, without soap, people cannot be clean; and, without salt, they cannot have soap. The Committee on Manufactures ought to pursue this subject. Their learned labors, their scientific researches, their practical knowledge, their access to the fountain heads of information, their zeal in the cause, would enable them to give in a list of some fifty manufactures in which salt, or its chemical preparations of alkali, muriatic acid, oxy-muriatic acid, sal ammoniac, &c. &c. &c. is indispensably necessary. To that committee is resigned this branch of the subject; and the confident belief may be entertained that, at the proper time, this zealous committee—this committee no less capable than zealous—will come forward with a mathematical demonstration to prove that the salt tax is an injury to manufactures to the full extent of its own amount, say a million of dollars per annum; and that the prosperity of manufactures loudly demands its total and instant repeal.

Every interest cries aloud; the joint interests of agriculture and manufactures clamor together for the repeal of this tax. It is a tax upon the entire economy of nature and art, upon man and upon beast, upon life and upon health, upon comfort and luxury, upon want and superfluity, upon food and raiment, upon washing and cleanliness! A tax which no economy can avoid, no poverty can shun, no privation escape, no cunning elude, no force resist, no dexterity avert, no prayers can deprecate, no curses repulse! It is a tax which invades the entire dominion of human operations, falling with its greatest weight upon the weakest and most helpless. It is the tax which tyranny invented, in the worst ages of the world, to force from the cultivator of the soil, to wring from the clenched fist of penury, to extract from the mouth of hunger, the last unwilling contribution of vassals to lords. The tories introduced it into England above a hundred years ago. Our necessities compelled us to resort to it, in a small degree, at the commencement of our Government. The federal administration of 1798 ran it up to its highest amount. Jefferson overthrew it. The war of 1815 compelled us to resort to it again. Now we have no war, no federal administration, no necessity, and the disciples of Jefferson are in power. The English whigs have over-

SENATE.]

James Monroe.

[FEB. 8, 1831.]

turned this tory tax in England; cannot whig republicans overturn it here?

Mr. B. repeated, with energy and emphasis, and wished to fix the attention of the Senate, and of all America, fully on the circumstance, that the British Parliament had totally repealed the salt duties of Great Britain. The information collected by the committee of the House of Commons in 1818, effected the immediate overthrow of these duties. The King's ministers withdrew their opposition, impossible as it was for the treasury to do without the product of the duties, and difficult as it was to find a new article of taxation on which the amount might be levied; but they withdrew their opposition, and the bill for the repeal went through both Houses without further debate, and received the approbation of the King the next day. This is what was done upon the prayers of the people, in a country where the people are very imperfectly represented in one branch of the Legislature, not represented at all in the other, and where the chief magistrate who approves the act is an hereditary ruler; where the necessity for the tax was urgent; where the domestic supply of artificial salt was abundant; where the manufacturers of this salt clamored for protection; but where the voice of the people was heard, and every minor interest made to yield to that sacred voice. He quoted this example, and dwelt upon it: for he held it to be impossible that the republican Congress of the United States, without a single restraining motive which operated in Great Britain, could refuse to do for the people of the United States, what King, Lords, and Commons, had done for the subjects of the British Crown.

Mr. B. then explained the provisions of his bill. He said it proposed, in the first place, to make the reduction to ten cents (now provided for by law) take effect on the first day of April ensuing, instead of the last day of December next. The last day of December happened to be the most unfavorable season that could be found in the whole year. It was "the day after the feast." Hog killing time, which created the great demand for salt, was just over, so that the duty was kept up to the very moment that it pressed hardest. The true season for the reduction to take effect was the spring, the month of April, when the rivers of the West were all flooded, and the returning steamboats, and the citizens who had gone down to New Orleans on trading voyages, could bring up supplies for the ensuing fall. The second reduction in the bill was to take effect in April, 1832, and the duty to cease entirely in April, 1833—requiring about two years to complete the entire abolition of the tax. This was a slow process compared to what took place in Mr. Jefferson's time. The whole tax was then abolished at two reductions, and both made in one single year; and, while that great friend of the people remained at the head of affairs, no more salt tax was heard of in America. Mr. B. hoped that this would soon be the case again; that two or three years more would exhibit this favored land emancipated from the salt tax, and enable every farmer to give food to his family, salt to his stock, and send his provisions to market, without paying a daily and hourly tax to the Federal Government.

Mr. B. would make no apology for detaining the Senate on this subject. He knew it was felt by many as an intrusion. Other operations had gotten into fashion, and suffered impatient interruption, while an hour's attention was claimed for the people. Still he would make no apology. He stood upon his rights, which gave him authority to discuss the affairs of the people. He took post upon the words of the constitution, which created the Congress for the express purposes of legislation. He knew himself to be backed by those whose backing was worth having; he felt himself to be cheered by those plaudits which were unbought and unpurchaseable. He should proceed as long as he felt that backing and heard that cheering. He

would proceed, with the blessing of God and the approbation of the people, until two great objects should be accomplished—till the salt tax was abolished, and the price of refuse land reduced!

Mr. SMITH, of Md., made a few remarks on the subject. He said that he was in favor of repealing the duty on salt, and had already introduced a bill repealing the duties on that article, among many others; but that he should be compelled to vote against the bill unless amended, inasmuch as it contemplated a repeal of the duty on alum salt alone, which was produced nowhere but at Turk's Island, while salt imported from all other places, England in particular, would be excluded from its benefits.

Mr. BENTON rose to reply, when he was interrupted by the PRESIDENT, who gave it as his opinion that the bill could not, according to the rules of the Senate, be introduced while there was a bill, the one noticed by the gentleman from Maryland, contemplating the same measure, lying on the table.

Mr. BENTON replied, that the bill he sought to introduce was for the repeal of the duty on a particular kind of salt, alum; while that of the gentleman from Maryland was to repeal the duty on salt in general. He, therefore, thought the measures were essentially different.

The PRESIDENT decided that the object of both bills as to the article of salt, was precisely the same; and that the leave asked by the gentleman from Missouri was not in order.

Mr. BENTON said he felt so confident of the correctness of the opinion he had formed, and so deeply impressed with the importance of the measure, that he must appeal to the Senate from the decision of the Chair.

Mr. HOLMES asked for the yeas and nays on this question; which were ordered.

Mr. HAYNE observed that the question of order which had just arisen was a new and important one. As he, and he believed other Senators, wished an opportunity to examine into the rules of the Senate before voting on the question, he hoped the subject would, by general consent, be laid on the table; which was done.

#### JAMES MONROE.

The bill for the adjustment and payment of the claims of James Monroe, was taken up, and read a second time.

Mr. HAYNE moved its reference to a select committee, on the ground of the peculiar nature of the claim.

Mr. NOBLE moved to refer the bill to the Committee of Claims, but expressed his decided opinion against its ultimate passage.

Mr. HAYNE replied, that the rules of their proceeding, when any measure of a peculiar character came before them, directed that a particular committee should be appointed for its consideration. The claims of Mr. Monroe were of a peculiar description, and the Committee of Claims, with the vast business they had on hand, could not have time to investigate them before the close of the present session. When these claims were on a former occasion before the Senate, they had been referred to a select committee, of which he was a member; and from this he knew that their investigation would be attended with considerable difficulty, and would require the attention of a select committee, to be confined to themselves alone. In advocating the appointment of a select committee, at this state of the bill, he expressed no opinion whatever on its merits.

Mr. BELL was of opinion that it should be referred to a select committee.

Mr. SMITH, of Md., as he understood from the gentleman from South Carolina, [Mr. HAYNE,] that the subject had before been referred to a select committee, was of opinion it was better to follow the same course at present.

The question was then put on Mr. NOBLE'S amendment, when it was negatived; and a ballot being taken,

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*Pay of Navy Officers.—Post Office Department.*

[SENATE.]

MESSRS. HAYNE, SANFORD, FRELINGHUYSEN, BELL, and IREDELL, were appointed a select committee.

#### PAY OF NAVY OFFICERS.

The resolution yesterday submitted by Mr. BARNARD, of Pennsylvania, concerning the pay of masters commandant and first lieutenants, was taken up.

Mr. B. stated that the object of his resolution was that the Naval Committee should inquire into the necessity of increasing the pay of masters commandant and first lieutenants. The bill of last session on the subject of the Navy, which had been reported, was of a general description, and had not been acted upon. It was well known that masters commandant were inadequately paid, considering the nature of the duties they had to perform, and that first lieutenants had no higher pay than junior lieutenants, who had not the same responsibility, and, in comparison, but trifling services to perform. Mr. B. further stated, that it was his object to have a medium pay fixed, for the former officers, of seventy-five dollars per month, and six dollars for rations, in place of the present pay, which varied from a lower to a higher scale; and also to raise the pay of first lieutenants in proportion.

Mr. HAYNE suggested to the gentleman the propriety of modifying his resolution—in its present form, it could be of no effect. There was no necessity for making inquiry on the subject: the bill which had passed the Senate last year, though, from its general nature, it had failed in the House, had settled the principle that a graduated scale was necessary. Than the officers of the rank mentioned, none better deserved an increase of pay. No officers had a greater share of duties to perform than the masters commandant; and it was also true that first lieutenants, though of long standing, and placed in such a responsible situation in the commanding of a ship, were no better paid than junior lieutenants of yesterday. He would suggest to the gentleman from Pennsylvania, [Mr. BARNARD,] so to change his resolution, as to direct the committee to report a bill in reference to officers of the above named ranks, and a bill of this abstract description was likely to be forwarded, when a bill of a more genial nature might not succeed.

Mr. BARNARD acquiesced in the suggestion, and the resolution was modified to read as follows, and thus adopted:

*Resolved*, That the Committee on Naval Affairs be instructed to bring in a bill to provide for increasing the pay and emoluments of masters commandant in the Navy of the United States; and also of allowing additional compensation to lieutenants, when acting as first lieutenants of a ship of the line, frigate, or sloop of war, according to the rate of the vessel.

The remainder of the sitting was spent in Executive business.

#### WEDNESDAY, FEBRUARY 9.

Mr. GRUNDY said that, at the last session of Congress a report was received from the Postmaster General, and, in consequence of the absence, at the time of its receipt, of the gentleman who made the call, it was laid on the table. He now moved that the report be printed for the use of the Senate. The motion was agreed to.

#### POST OFFICE DEPARTMENT.

The resolution declaring that the select committee appointed to examine the present condition of the Post Office Department, were not authorized to call before them persons removed from office, for the purpose of ascertaining the causes of their removal, was again taken up.

Mr. GRUNDY concluded his speech in support of the resolution. [The remarks made by Mr. G. to-day are included in the report of his speech under the head of Monday.]

Mr. HENDRICKS (another member of the committee of inquiry) next rose. He said he would detain the Senate with a very few remarks; and, but for a notice by the

chairman, of certain proceedings of the committee, when he was not present, he did not know that he should have mingled at all, at this time, in the debate. Absence from the committee, at any time, might, unexplained, be considered a dereliction of duty, with which he did not feel himself in the least degree chargeable. It was well known to the chairman, as well as to the other members of the committee, that, previous to any knowledge of the meeting alluded to, he had been notified to meet the Committee on Indian Affairs, a standing committee of the Senate, of which he was a member. This fact he had communicated to the chairman of the select committee, before the meeting had been called. This much he had thought proper to say, in explanation of the reasons of his absence from the committee that morning.

It was not his purpose, said Mr. H., to go into an examination then of the condition of the General Post Office, for that was a duty confided to the committee, which had not yet been performed; that, on the fragments of testimony as yet before the committee, he, for one, would not form any definite opinion, and he would not prejudice the case. The committee had closed the testimony on no one single point. The testimony of Abraham Bradley, the first witness, had not been closed. Mr. H. here spoke of the late Postmaster General, and said, that of him he had a most exalted opinion. He believed him to be an honest man; an upright and efficient officer. He remarked that as to the present Postmaster General, he would not, at this time, pass either censure or eulogy; that in doing either he should feel himself prejudging the case before the evidence had been heard. The committee had a large field before them; had taken as yet but little testimony, compared with that thought necessary; and that so far there was no testimony before the committee to criminate the Postmaster General. This remark he thought proper to make, for, from the journal of the committee, frequently referred to, he had been seen voting very broad, and almost unlimited inquiries, answers to which might seriously implicate the Postmaster General; inquiries of which the Senators from Tennessee and New Hampshire had complained to the Senate. He had, at the instance of the chairman, voted interrogatories, based on the allegations of persons unknown and unnamed to the committee; he had sanctioned questions which did not appear to him very necessary, because other members of the committee thought them so, and it was proper for him to say that this course was not based on any testimony given to the committee, of existing maladministration in the department, but was taken in order to give free and expanded scope to the examination, that misdemeanor, if it existed, might be ferreted out, or, that rumor with her hundred tongues might be hushed into silence. Justice required this to prevent erroneous impressions from the course he was pursuing; and while he thus acted, and should now vote, against the proposition of the Senator from Tennessee, and wish the inquiry to progress, he should feel himself bound, now, and at all times, to do justice.

He was somewhat surprised to hear the proceedings of the committee thus far exhibited before the Senate; for it had been agreed, that until they should be given in the form of a report, they should remain exclusively with the committee. But of this he would not complain, for every thing done by him in committee had been done from the house top; and nothing for concealment. The chairman, however, had thought proper to suggest, and somewhat in the tone of complaint, that a modification of one question, calling on the Postmaster General for the causes of removal, had been made. He says that, in the interrogatory referred to, the causes of removal in each individual case are not required, and that the Postmaster General is requested to classify the causes for brevity's sake. Mr. H. said he had voted for this modification, wishing to make a report at the present session, and believing that without the



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Post Office Department.

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modification it would be impossible for the department to answer the call before the 4th of March. How correct he was in that opinion, the communication from the Department to the committee would show. Mr. HENDRICKS here read as follows:

"POST OFFICE DEPARTMENT,  
January 31, 1831.

"SIR: I have the honor to acknowledge the receipt of your letters of the 18th and of the 27th instant.

"The preparation of the statement necessary to a reply to the interrogatories formerly submitted by the committee, was immediately commenced, and has been unremittingly prosecuted by the department. It has required not only the application of all the disposable force of the department, delaying some of its important current business, but has employed unremittingly several additional clerks: when the work is completed, it will be forthwith submitted to the committee. I am, sir, respectfully, &c.

"W. T. BARRY.

"HON. MR. CLAYTON, *Chairman, &c.*"

Mr. H. said he might, however, here state, that he believed but one member of the committee thought this a matter of any great consequence. All the members except the one propounding the interrogatory, viewed the question as one of comparatively small importance. This he knew to be the opinion of the chairman. Nor could he see the difference for any practical result, between the question modified, and the question as it was originally framed; for, if fifty postmasters were removed for precisely the same cause, the statement of that cause once, as applicable to the list, would surely be as certain and satisfactory, as if that cause had been stated fifty times, and the statement appended to each name.

The narrative of one or two incidents in committee, he thought somewhat incorrect. Every thing had not been related precisely as recollected by him. On the suggestions contained in a letter to one of the Senators from Virginia, charging the Postmaster General with misconduct about some Southern contracts, and referring to affidavits and witnesses, it was proposed to send for several witnesses to Virginia. This letter had been handed round among the members of the committee, and a meeting called. It was instantly determined in committee to send for the witnesses; but, on the confident statement of a member, that the testimony, the very affidavits spoken of in the letter, were to be had at the post office, it was thought best to procure the affidavits first; and the diversity of opinion in committee was, not whether the witnesses should be sent for if needed, but whether the documentary testimony should first be procured from the department. It was remarked, that the documents ought first to be procured, and then, if these were not satisfactory, we would incur the expense of sending for the witnesses, and this opinion prevailed. The chairman and the Senator from Tennessee were required by the committee to perform the duty of going to the post office and procuring the affidavits, which duty the Senate had been told was not yet performed; and if there were any delay in this, the Senate would see that it laid at the door of the Senators from Delaware and Tennessee. The sense and the vote of the committee were, that the persons should be forthwith sent for, if the papers were not satisfactory; and after all this, well understood as he supposed, it seemed to him somewhat strange that the chairman in this should feel himself justified in talking about delay.

One other instance in which the facts, as they occurred, had been misapprehended. The meeting of the committee at which the examination of Mr. Bradley was commenced, had been named, and his motion to adjourn cited as a measure of delay. He had been represented as giving reasons for that motion; but whatever incidental conversation might have taken place about that time, he had given no reason for his motion to adjourn. He would have

been saved the trouble of noticing this, if it had been stated that the committee had met in the afternoon, after a long session of the Senate, and had continued in committee some considerable time after candle-lighting. This the Senate would no doubt say was a sufficient reason for adjournment. There was no probability of being able to get through with the testimony of Mr. Bradley that night, and the committee then thought, as they have thought ever since, that night sessions on this business were unreasonable, and too laborious, and have had none of them since.

In conclusion, Mr. H. said, that the whole matter had confirmed him in a belief of the correctness of his vote originally given, for referring this examination to the standing committee. That was the committee which ought to have been charged with this duty. With the affairs of that department, the standing committee must necessarily be more familiar than the select committee could possibly be. It was their ordinary business and duty to examine into and understand the condition of the General Post Office. To a select committee the whole business was entirely new.

From what had been said, it would readily be seen that the committee were employed in a most laborious examination; and should the Senate pass the resolution of the Senator from Tennessee, the committee would be relieved from much of its burden. He could not, however, vote for the resolution. He entered upon the duties required of the committee with great reluctance, but, having proceeded thus far, he was inclined to go through. Let us not, said Mr. H., waste the time of the Senate in debating the matter now. The Senator from Delaware was the first who moved in this business. He had repeatedly said that there was good reason for believing in the maladministration of the department, and said, let us have light. He would not undertake, at this time, to say any thing about the maladministration of the department, but with the Senator from Delaware he would vote against the resolution before the Senate, and proceed in the business of the committee. He would not consent to stop at the present point, and publish this discussion to the world, to become a political text-book, instead of authentic facts and testimony. Something had been said in committee about large extra allowances to contractors in this neighborhood. This allegation he wished to inquire into. Suggestions, too, had been made of similar improprieties in the State he had the honor to represent. This matter he wished to know all about. He was anxious to know if there were any serious evil in the department; any thing seriously to militate against the passage of the post route bill, now, and last session too, before Congress. The department should, if possible, sustain its own weight. He was far, however, from believing that it ought to be looked to as a source of revenue. Intelligence, and the convenience of the people, were its chief objects. He was anxious that the post route bill should pass, and for one, if that measure were necessary, he would vote an appropriation to meet the expense. It was his wish that the new settlements of his own State should be supplied with the mail, and in that point of view felt an interest in the whole matter which others might not feel.

Mr. CLAYTON again took the floor. It is, said he, with unfeigned reluctance that I rise for the purpose of again engaging in a discussion of a resolution of the honorable gentleman from Tennessee. Laboring as I do at this time under considerable indisposition, it would be much more agreeable to my feelings, if consistent with my sense of duty, to suffer those who originated this debate to "form their political text-book for the year," as the gentleman from Indiana has phrased it, without any attempt on my part to mar its beauties or correct its errors; but the remarks which I had the honor to address to the Senate on this subject have been so grossly perverted, and

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Post Office Department.

[SENATE.]

the real state of the funds of the Post Office Department, as they appear from the documents before us, has been so incorrectly represented by the members from New Hampshire and Tennessee, [Messrs. WOODBURY and GRUNDY,] that I am again compelled to trespass upon the indulgence of this honorable body.

Before I proceed to discharge this necessary duty, suffer me, sir, briefly, to notice an observation which fell from the member from Missouri, [Mr. BEXTON,] in the course of a debate on the salt tax, originated by him, and which you then pronounced to be disorderly. He was pleased to say that the Senate ought not to deny him a hearing on his important motion to abolish the duty on alum salt, while they so willingly consented to this investigation, "which engaged them as petty constables in ferreting out crimes of which they might afterwards become judges." There was nothing, sir, in the source from which this sprung, in the manner in which it was made, or in the occasion which gave it birth, that would have entitled it to any notice from me, but for the repetition of the argument involved in it, that the Senate ought not to inquire into impeachable matter. That argument, sir, has been urged by the Senator from New Hampshire, and supported by the gentleman from Tennessee, to deprive the committee of the power of ascertaining the principles upon which your Postmaster General has removed so many hundreds of officers from his department. If it has not been sufficiently met and answered already, it was because such an argument was not deemed worthy of any labored reply. It is not every hypocritical pretence which ingenuity can resort to for the purpose of screening guilt or condemning innocence; not the complaint of every sycophant who bends before power, and who would prostrate the dignity of the Senate while he affects to mourn over its fall, that merits an answer from me. But to the gentleman from Tennessee, who represents the highly respectable Legislature which elected him, and who doubtless thinks there is weight in this objection when he presses it, I answer that the object of the whole inquiry, as expressed on the face of the resolution, under the authority of which he and I are acting as members of a committee, is to enable us to legislate; that it was not instituted to lay the foundation for any impeachment; that the right which the Senate enjoys as a co-ordinate branch of the whole legislative power of the Union, involves the right to inquire into any and every abuse in all the departments of the Government which legislation can reach, and which Congress ought either to limit or prevent. The power to inquire whether a law be necessary, must be incident and subsidiary to the power to make it.

His reasoning to screen the Postmaster General from this investigation proves too much. It would prevent us from examining the conduct of all those subordinate officers of this Government, who are as liable to impeachment as the President or chiefs of departments. The gentleman from Maine has justly remarked that the Senate is, for some purposes, a judicial, for others an executive, and for others a legislative body. It exercises all the powers incident to each of these capacities, independently of others. Was it ever heard that the Senate forbore to counsel and advise the President in their executive character, because they might thereby prejudice matters which, by possibility, might afterwards be submitted to them as legislators? Should we refuse to hear a word to convince us of the necessity of passing an act to prevent, by increasing the penalties for extortion in our public officers, because we might be called upon to try them as judges? Did we refuse to decide in our judicial capacity a question of contempt, because such a bill as has since been introduced, to regulate the law of contempt, might be brought before us? The argument, if it deserve the name of one, would subvert the power, and obstruct the whole action of the Senate. In all such cases the objection of prejudg-

ing is met and crushed by the antagonizing consideration, that our duty to the people, and our oaths to support the magna charta of their liberties, require of us to close every avenue against the possible abuse of power, and to expose and restrain every encroachment upon their rights. Sir, there are, perhaps, a hundred cases appearing on our records, in which inquiries have been made here into abuses of the Government, for the purposes of legislation; and it is not too much to say that this is the first time, in the history of this body, when such an objection has been advanced to screen a public officer from a fair and full investigation of the principles which have regulated his official conduct. It is no less striking than novel, too, that the friends of the Postmaster General should betray such great sensitiveness, lest the examination of the committee should lead to his impeachment. When that committee was appointed in the early part of this session, it was vauntingly urged by his friends here, that they defied the investigation, and courted the inquiry. Their cry was, "none but the galled jade winces." "Examine every thing, and you will find all right." The original resolution directing the inquiry into the entire management of the department, was adopted with an air of triumph, though the anxiety to avoid the scrutiny of a select committee did not very well comport, as I thought then, sir, with the lofty and sounding phrases which accompanied it. When the trial begins, we see that a new light is suddenly shed on the question then decided. A part of the power which was delegated on the committee, must be now revoked. The light begins to shine too brightly, and the cry is, we are afraid you will disclose impeachable matter. In other words, the fear is, that the Postmaster General has so grossly violated the law and the constitution, that if we suffer your committee to examine his principles of official action, with a view to restrain him, we may be compelled to try him on an impeachment! I will not deny this, sir, because it has, doubtless, been permitted to these gentlemen to learn much more of the secrets of his department than myself; and, as I do not love to contradict gentlemen when I can avoid it, I agree that the apprehensions they express may be well grounded. If the proof be not arrested, a scene of barter and juggling for office may be disclosed, the like of which never before disgraced this or any other country. It may be, that the people will stand aghast at it, and every honest man of the political party which has elevated the chief of this department to his present station, shall view this scene of political corruption with horror! Does the department cower under these charges, sir? Does it, in the face of an honest but deluded people, still shun the light under the hypocritical pretence that we cannot inquire into impeachable matter! Yes, sir, it dare do this; and it has found a supporter here, who, while he expresses his fears that we are ferreting out crimes of which we may afterwards become judges, denounces us as petty constables for our trouble. Yet, be it remembered that this comes from the chairman of the Committee on Executive Patronage; and, as the Senator from Maine, who was a member of it, has alleged, without contradiction, in the debate here, from the very author of the report of that committee, which, in 1826, examined every department of the Government for abuses, and reported six bills to check the current of Executive power, with a voluminous exposition of facts and alleged crimes, to lay the foundation of legislative interference. Look at the report! One of the bills contains a clause to compel the President to assign the causes for every removal from any office referred to in that bill. It was not only deemed proper, then, to disclose impeachable matter, but necessary to compel that disclosure for executive as well as legislative purposes. Now, the very course recommended at that time is right for no purpose. Another of these bills provided that no postmaster, where the profits of his office amount to a certain sum, shall be appointed to or re-

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moved from office but by the President and Senate. The argument in favor of this bill then pressed upon the people, was, that the influence and patronage of the department were so vast, that it had become one of the "arbiters of human fate" in this country, and could no longer be safely trusted to a single individual. The committee, instead of telling us they were afraid to ferret out crimes, say they "hold themselves to be acting in the spirit of the constitution, in laboring to multiply the guards, and close the avenues to the possible abuse of power;" and the impeachable matter which is now so objectionable a feature in this inquiry, was then so glorious a discovery, that six thousand copies of the report were printed by the Senate, and scattered throughout the country. We see here who were the "petty constables" of that day; and if a change of times has not produced a change of principle too, we shall now proceed fearlessly in ferreting out abuses of every description which we can reform or inhibit. If, for doing so, we receive the appellation of petty constables, let us rely for our reward on the approbation of our consciences and our country, taking care to merit no more humble title than that of honest constables, who never charge double compensation for their trouble.

But it is alleged that this question was decided by the Senate at the last session, when they refused to inquire into the causes which induced the President to sweep the list of civil officers, and the aid of precedent is invoked to effect a suppression of this investigation. Sir, I am not aware that this Senate has, in the gloomiest period of subserviency to Executive will, decided the abstract principle, that even the President is above the law, or that his principles of action, while administering the constitution, are not liable to investigation. I know well, that, in the executive sessions during the last year, inquiries, in particular cases of removal, were repeatedly refused, some thinking the inquiries inexpedient in those particular instances. The power of the representatives of the States was held in slight estimation by the advocates of Executive influence at that day, it is most true; but even then no man pretended that all the subordinate officers of the Government should be covered with the same ægis which protected their chief. The argument then was, sir, that the President was answerable only to the people who elected him at the polls, and not to their representatives—a distinction to which I never bowed with any respect, and which I still think is entitled to none. But the chiefs of departments are neither elected by the people nor the States, nor answerable to either in any other way than through their representatives here, by whom their whole powers are conferred. The Postmaster General, like the rest of these chiefs, is an officer unknown to the constitution, and the creature of the law only. Congress enacted the law which constitutes his whole authority for action. It made him. It can repeal that law and unmake him. Upon the very principles conceded by those who sheltered your President from scrutiny, the chief of this department is amenable, like every other creature of the law, to his creators. And if not, then is every other executive officer of this Government at all times, and under all circumstances, above the very law which established his office. You cannot, on this principle, investigate the conduct of the most petty officer in the customs, without invading the royal prerogative; and the principle that the "King can do no wrong," which even England knows only in theory, is here transferred to every subordinate of the Government, until every "pelted petty officer" becomes a tyrant, amenable to no human tribunal but the will of his political chief.

There does not exist in this Government a department which, by law, is held so irresponsible to Congress, or the people, as the post office. It disburses, annually, from its own funds, \$1,932,000 among the people; of which \$593,000 is paid to postmasters, all subject to be removed

for a smile or a frown, at any moment, by its chief. The sum of \$1,274,000 is paid for transportation of the mail, to individuals who are equally liable, for a smile or a frown, to be embarrassed by the regulations of the department, (such, for instance, as the loss of a single trip,) and driven from its employment. If a soldier of the revolution apply for a scanty pittance of one hundred dollars per annum, his claim must be scrutinized, and the will of Congress, tardily expressed, must sanction the compensation, or it is lost. But how many thousands are disbursed by the chief of this department, at his will, under the name of extra compensation to contractors and officers, of which no account is rendered to Congress or the people? The items composing the immense expenditure of \$1,274,000, are no where laid before the public; and it is alleged that, in the disposition of it, the grossest abuses of unrestrained power have been committed. What check, what control do you, can you, now exercise over this vast disbursement of the public treasure? Is there any department, of this or any other Government, whose means of controlling public opinion are so ample, that it is subject to no check or limit? A nod from its chief now creates, at any moment, a new clerk, with a salary of a thousand or fifteen hundred dollars, or drives him from office, and you are not even consulted as to the propriety of the measure; nay, you remain in utter ignorance of the fact, for the annual report does not condescend to give you a single item in the whole mass of these disbursements. In addition to all this, more than sixty-three thousand dollars are annually paid away, under the head of "Incidental Expenses," at the will of this chief of a department; and there is not a man on this floor who can state the number, and the substance, of even the principal items which compose it. All that you know of it is, that, in the report, a part of the mighty expenditure of nearly two millions of dollars, which this department annually lavishes upon twenty-six thousand officers and agents, is stated to be composed of "Incidental Expenses!" Sir, is it possible that it can escape a thinking intellect, how easy a part of these immense sums might be paid away to a hireling agent for an electioneering tour, under the pretence of public duty? Is it, dare it be, denied, that there are secret agents in the employment of this chief, whose compensation, defrayed out of the public purse, is regulated by his sole control, and whose services are never made known to the people, or their representatives here? Yet, in addition to all these expenditures, the department draws annually from the treasury the sum of sixty-one thousand two hundred and ninety-one dollars, to pay the salaries of certain officers and agents, and what are called "contingent expenses" of the department, making the whole actual annual disbursement of \$1,993,993 95. And, to crown the climax, Congress is now asked (and a bill lies before me which has actually been reported for the purpose) to increase the pay of the present officers to an amount never known before, by more draughts on the treasury, and to authorize the present Postmaster General to create as many new clerks as he pleases, each with a salary of eight hundred dollars per annum, to be paid, not from the funds of the department, but from the treasury!\* Is it not right to inquire, then, for what specific objects these expenditures have been made? why the same labor which was performed by the old officers, cannot now be done for the same compensation? and upon what principles the department has been regulated in constituting the recipients of its bounty, or removing the objects of its aversion?

\* On the 26th February, the department sent into the Senate an estimate for extra clerk hire, amounting to twenty thousand dollars, which was inserted in the appropriation bill, and makes the draught on the treasury, to sustain the department this year, eighty-one thousand dollars.

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[SENATE.]

It so happened, sir, that, in the course of the few remarks which I yesterday found it necessary to submit in reply to the gentleman from Tennessee, who introduced this resolution, and commenced this debate, I entered into some calculation of the state of the available funds of this department. I did so, as I then distinctly stated, with a view to explain the causes which had induced this investigation, and to exhibit the necessity of ascertaining the truth or untruth of what public rumor had most confidently alleged—that the declension of the public treasure there, was owing to the removal of so many experienced and faithful agents. To this course, sir, that unflinching champion and advocate of the department, the gentleman from New Hampshire, has taken great exception. He chooses to assume that I, by the mere statement of what appears on the official records, (for I did nothing more,) have charged the department with corruption and fraud. That is a result, sir, to which I might arrive by the aid of that evidence which the honorable gentleman has refused the committee to hear. I would not prejudice the whole case, however, while I rejected the testimony, or before it was heard. But, if the charge of an expenditure unprecedented in the annals of the department necessarily implies, as he seems to consider, a charge of fraud and corruption, then, sir, that charge is sustained by evidence which twenty times his force can neither suppress nor discredit. The official report shows the amount of expenditures for the last year to be \$150,574 38 more than was ever expended in any previous year. To counteract the effect of this single fact, the member from New Hampshire boasts that the receipts of the department have exceeded those of the preceding year by the sum of three hundred thousand dollars. Now, sir, he who affects, with such an air of triumph, to call my attention to “dates and figures,” should be a little more careful in reference to them himself. The great difficulty with this sounding declaration is, that it is not true. The Postmaster General’s own report, in the first ten lines of it, proves how miserably the member is mistaken. The receipts for the last year were \$1,850,580 10; those of the preceding year were \$1,707,418 42; and the difference in the receipts is \$143,164 68. The receipts for the year ending the 1st of July, 1828, were \$1,598,877 95, a sum which is less than that for 1830, by \$251,705 15 only. When the gentleman, in the excess of his zeal to lavish encomiums on the department, only doubled the real excess of revenue of 1830 over that of 1829, and supposed he was thereby casting the predecessor of Mr. Barry into the shade, we must, in charity, suppose that he had forgotten that the real ratio of increase of revenue, since the latter came into office, had fallen short of that of former years. I do not suppose, sir, that he wilfully stated one hundred and forty-three thousand dollars to be three hundred thousand dollars, but I do suppose that some one had informed him that this statement was correct. The fact is, the increase was two per cent. less than usual. In a country where the increase of population is so rapid as in ours, where the demand of all classes for intercourse through the mail is constantly growing, the revenue for postage must, and will, if proper attention be bestowed upon it, annually increase in a corresponding ratio; and a Postmaster General, whose advocate can rest his pretensions to public confidence upon no better evidence than that increase which must be inevitable, affords but slender cause for his advocate to shout victory before the battle is begun.

In connexion with this subject, the member then proceeds to reply to my remark, that, from the statement of the Postmaster General himself, the department is unable to meet the public demand for post routes; and that, if that statement be true, unless some change should occur in the administration of its affairs, it would soon reach the period of its bankruptcy. Now, sir, to substantiate my position, suffer me to refer the member to a few

passages in only two of Mr. Barry’s communications to Congress, which cover the whole ground. In March, 1830, he writes to the Committee on the Post Office and Post Roads, of the other House, as appears by the printed report of that committee, in vol. 3d of the reports of the House of Representatives, No. 361, that, on the 1st day of April, 1829, the available funds of the department amounted to two hundred and eighty thousand and sixty-five dollars, being the sum which he thus admits Mr. McLean had left, after paying all the expenses of the department during his administration;\* and, at the same time, he admits that, during all former periods of its history, “all the expenses of transportation, and others incident to this department, have been defrayed by its own resources, without any appropriation, at any time, to meet them, from the treasury.” But, in addition to this, he admits that Timothy Pickering, Joseph Habersham, Gideon Granger, Return J. Meigs, and John McLean, had actually paid into the treasury of this nation the sum of \$1,103,063, no part of which had ever been drawn by the department; but which had remained in the treasury to augment the revenue, and strengthen the arm of the Government. Then, in the same document, he informs the committee, that “now the greatest possible frugality is necessary in the management of the concerns of the department, and without any considerable improvement in mail facilities for, it is believed, at least three years to come, to make the department sustain itself in its present operations, without any increase in the number of mail routes!” He proceeds to inform them that the two hundred new mail routes, then called for, would cost eighty-six thousand dollars, (the treasury, of course, to pay for them, as the department could not,) and concludes the paragraph by saying, “It is not, however, apprehended, that the existing state of the department, and a continuation of the accommodations already in operation, though its expenses, for the present, greatly exceed its current income, will require any assistance beyond what will arise from its progressive increase of revenue; but, as before stated, with adequate vigilance, the resources of the department are believed to be equal to its present exigencies.” Here, then, we see that, in March last, such was the embarrassment of the department, that, for the first time in the history of its administration, its funds were equal only to its then existing exigencies, without a cent to defray the expense of the mail routes which were called for from all parts of the country. Before that time, we all know, that “all the expenses of transportation were defrayed (and promptly too) from its own resources.” Then it could only, by great frugality, “sustain itself in its present operations,” without being able to pay for any new mail routes or mail facilities for three years to come! After this, sir, comes the important question, have the funds of the department increased since the date of this document? So far from it, your Postmaster General, in his last annual report, tells you, that since that time, and during the year ending on the 1st day of July, 1830, its expenditures have exceeded its income \$82,124 85; and the two hundred and eighty thousand dollars which his predecessor had left, were then reduced down to one hundred and forty-eight thousand

\* Mr. McLean, in his communication to the committee, dated February 26, 1831, states, that when he left the office, the surplus funds amounted to \$289,140 17, making nine thousand dollars more than the amount stated by Mr. Barry. He also states the whole amount of the excess of expenditures above the receipts, from July 1, 1828, to April 1, 1829, to have been but \$39,312 90, including \$5,832 15 expended for the new post office building, which he says ought to have been a charge on the treasury. Mr. Barry states this excess, during the same time, at \$42,863 95. See 4th vol. State Papers, 1st session 21st Congress, document No. 118,

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dollars. From the Postmaster General's answer to a call of the other House, made last year, to ascertain the excess of expenditure which occurred in the three last quarters of Mr. McLean's administration, it appears, that the excess for the first quarter of the new administration, which commenced on the 1st of April, and ended on the 1st July, 1829, was thirty-two thousand dollars, which, added to the eighty-two thousand dollars, the excess for the ensuing year shows that, in the first fifteen months of his administration, the funds of the department were reduced one hundred and fourteen thousand dollars. I commend the gentleman of "dates and figures" to an examination of these stubborn facts; and when he has learned them, I may pray his opinion on the question, whether, from the records before us, the department is not verging to insolvency, and already rendered inadequate to the purposes of its creation. Sir, he, and his friend from Tennessee, may paint an inch thick, yet to this complexion it must come at last, unless they mean to contend that the Postmaster General has either wilfully or ignorantly misrepresented the state of the funds; and I leave them to choose which branch of this comfortable dilemma may to them appear most expedient to hang upon in his further defence.

At the same time, sir, let me by no means be understood to admit that the present Postmaster General's statement of the available funds left by his predecessor is correct. His predecessor stated the amount of these available funds to have been, on the 1st day of July, 1828, 332,000 dollars, after deducting all desperate accounts. But his successor, in his report to Congress, reduces this sum (by deducting for losses since ascertained, and for expenditures) to 280,000 dollars, on the 1st day of April, 1829. Whether this does not exhibit these funds at the time his predecessor left the office in an unfair light, yet remains to be ascertained. What these newly discovered losses consisted of; whether they had not been previously taken into the estimate by his predecessor, and upon what principle that estimate was made, all remain to be examined; and I hope we shall ascertain them yet, although the gentlemen from Tennessee and New Hampshire have, as we have seen before, refused to hear the evidence of the solicitor of the department on this important branch of the subject. If these funds have been incorrectly represented to Congress by the present Postmaster General, I shall not stop to inquire whether his diminution of them was made with a view to disparage his predecessor, upon whose official reputation he evidently put a slight estimate in his first report, nor whether he purposes to place the sum he has deducted from Mr. McLean's estimate futurally to his own credit as a financier; but if the funds do exist, in spite of his report to the contrary, why do all his friends in both Houses oppose the passage of the post route bill, on the ground that he has not the money to defray the expense of establishing the routes?

But further, sir. My position being fully sustained by the Postmaster General's own statements, I ask the gentlemen who undertake to decide the matter referred to us in his favor before the investigation is begun, why is it, that now, for the first time in the history of the department, it is unable to defray the expenses of mail transportation on the new routes, which the public have demanded by their petitions here, and which have swelled to about three hundred? It was boasted by the gentlemen, that the Postmaster General had collected more revenue last year than was ever obtained before in a single year. And the member from Tennessee dwelt with heartfelt delight upon the fact, that the present postmaster of this city, who was appointed to fill the vacancy occasioned by the removal of Mr. Munroe, had collected a larger sum in a given time, than the latter did in the corresponding time preceding it. This, sir, with deference to the gentleman, is so small a business, although the Postmaster General has, as we see, found a friend here to make the

call for the information with a view to effect, that I should not notice it but for the imputation attempted to be cast upon the excellent officer who was removed. Here, as in all other cases where a victim has been singled out for proscription, the effort of the department is to destroy his reputation. And yet this statement of the Postmaster General has never been printed, nor in any other way has the proscribed officer been notified of the intended attack. But, saying nothing at this time of the truth of the statement, and leaving that to Mr. Munroe himself, who will defend himself against this or any other imputation, we cannot but reflect that, in every growing town or city, a concurrence of fortuitous and co-operating circumstances often produces a much greater revenue in one year than that of the preceding one. In 1829, when the new postmaster was appointed, this city was thronged with thousands of visitors and applicants for office, whose letter postage, in addition to that which the rapidly growing prosperity of the city produced, must have constituted a formidable item for the Postmaster General to exhibit, in contrast with that of the preceding year. I shall not stop to estimate postage on office-hunting letters at that day. The gentlemen on the other side have far better means of judging of this. Doubtless it was enormous. Nor shall I point the attention of the gentlemen to the many cases in which the revenue has declined, after the removal of good officers. But as this, and all like items, are embraced in the whole mass of revenue for the year, I answer all vaunts of this kind from the department, by inquiring, in turn—what have you done with the money? You tell us that you have expended about two millions of dollars, and abstracted from the funds, in one year, eighty-two thousand dollars besides. How have you disbursed this immense sum? And if your inability to comply with the public demand for mail routes, presenting, as you admit it does, an unexampled state of embarrassment in the administration of this branch of the public revenue, be not owing to the improper dismissal of meritorious officers, and the substitution of inefficient ones to fill their places, to what cause do you ascribe this state of things?

To this important question the gentlemen reply, first, that it is to be ascribed to the increased mail facilities which have been established; and they quote from the last report, that from the 1st day of July, 1829, to the 1st day of July, 1830, the transportation of the mail was increased in stages equal to seven hundred and forty-five thousand seven hundred and sixty-seven miles, and on horseback and in sulkies, to sixty-seven thousand one hundred and four miles. Admit this statement to be strictly true, yet they should have remembered that similar mail facilities have always been granted before; and they also should have read to us so much of the same report as states that "it is in part owing to these improvements that the amount of revenue is so much augmented." The necessary effect of these very improvements must be to increase the amount of postages, and to defray, if not all, at least a very large part of their expense. But if they had proved a dead loss to the whole amount of their cost, it would not account for one-half of your expenditure. We are told in the same report, the average expense of transportation by horse or sulky, is five cents per mile, and by stages thirteen cents per mile, in the southern division. Now, suppose these improvements, which have "so much augmented the revenue," did augment it to an amount equal to one-half their cost; and suppose that every mile of this increased mail transportation in stages cost thirteen cents instead of eight cents, (the mean difference between the cost of that mode of transportation and the transportation by horses and sulkies,) the expense of the whole seven hundred and forty-five thousand seven hundred and sixty-seven miles is but \$96,949 71; and then adding \$3,355 20 for the sixty-seven thousand one hundred and four miles of transportation by horses and



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sulkies, at five cents per mile, the whole expenditure is but \$100,304 91; and the one-half of this we have supposed is paid by the increase of revenue it has produced! How does this account for the fact that one hundred and fifty thousand dollars were last year expended beyond the disbursement of any former year, and that since the resignation of Mr. McLean the whole annual revenue has been sunk, and one hundred and fourteeff thousand dollars drawn from the funds he left?

But if this excuse be insufficient, say the gentlemen, we have another. There were new post routes established in the time of the predecessor of the present Postmaster General, a part of the cost of which has fallen on the latter. On this subject, sir, I think it can be easily shown, that the expense of establishing the new routes alluded to, amounting to something more than two hundred, did not exceed thirty thousand dollars. All the revenue which the routes established by the law of 1828 produced, was received by the present Postmaster General; not a cent of it by his predecessor. The whole expense of the first quarter after the routes were established, was incurred and paid before the 1st of April, 1829, out of the funds in the hands of that predecessor, forming, therefore, no deduction from the surplus of two hundred and eighty thousand dollars, which was left on the 1st of April, 1829. No law has passed since the present Postmaster General came into office, to compel him to establish a single new route. His predecessor established five hundred and fifty-three, including those enumerated by the act of 1827, paid the expenses of them all without calling on the treasury for a dollar, and left more than two hundred and eighty thousand dollars in the department! During all this time, too, there was a corresponding increase of mail facilities of every description. The following statement will show how little in his day the funds of the department were affected by such causes as are now assigned for their unprecedented decline:

By the acts of the 3d of March, 1823, and 3d of March, 1825, two hundred and seventy-nine new post routes were established, of which two hundred and fourteen were included in the last act. From the 1st of July, 1823, to the 1st of July, 1824, the transportation of the mail was increased four hundred and ninety-five thousand one hundred and eighteen miles, of which three hundred and seventy-four thousand two hundred and seventy miles consisted of stage transportation; the cost of all which Mr. McLean estimates at thirty thousand dollars in his report of 1824. By the report of November, 1825, it appears that, from the 1st day of July, 1823, to the 1st day of July, 1825, the increase of mail accommodation amounted to one million five hundred and twenty-eight thousand eight hundred and twenty-one miles, and during the same time one thousand and forty new post offices were established. "Yet," says the report of that day, "such has been the accession of receipts for postage, that the additional expenditure required by this extension of the mail will be met without difficulty; and if Congress should think proper to relieve the treasury from all charge on account of this department, the usual appropriations may be drawn from its own funds." In these two years, notwithstanding all these drafts on its funds, so vastly greater than those which have occurred since the 5th of March, 1829, at a period when the density and amount of population were far from conferring the same advantages for increasing its revenue, which now exist, the whole expense was promptly met by its own funds, and yet there was an excess of revenue for these two years of \$29,177 99! The report of November, 1826, shows an augmented conveyance of the mail, since 1823, of one million eight hundred and fifty-seven thousand three hundred and forty-five miles, and an increase of one thousand seven hundred and fifty-four new post offices. Yet the revenue was found sufficient for all these expenses, and there was an excess of it in that very

year, over the expenditures, of \$79,100 61! The report of November, 1827, shows an augmented transportation of the mail for the preceding year, of four hundred and fifteen thousand two hundred and fourteen miles, in stages; and on horseback\* and in sulkies, of fifty thousand and thirty-two miles—yet exhibits a surplus of revenue for that year, after paying all expenses, of \$100,312! But more, sir. In this very report, Mr. McLean adds, "that the surplus funds exceed \$370,000; that the means of the department are now ample to meet the reasonable wants of the country; and that a vigilant administration of its affairs, for a few years to come, will place at the disposition of the Government an annual surplus of more than half a million of dollars!" Yet, at this time, sir, when it is not able, by the declarations of its present chief, even to establish another mail route, its advocates and champions tell me there has been a most vigilant administration of its affairs! And I am even taken to task by a *censor morum* here for daring to inquire into its concerns.

I will now close the examination of these excuses for this department by one more brief statement of its former situation. In the report of November, 1828, it appears that the late Postmaster General had, since 1823, added,

In stage transportation,	1,949,850 miles;
In sulkies and on horseback,	1,658,949 miles;

Making an increase of 3,608,799 miles;

which improvements were "accompanied by great increase of expenditure on all the important routes; on many of them the mail being then conveyed at the rate of one hundred miles a day"—yet the amount of the funds during this time rapidly increased, and the surplus left (says the report) was 332,105 dollars and 10 cents. Let it be remembered, too, that the number of new post routes established from 1823 to 1827, was 553, and they were in the next year increased to 783. Now, mail facilities, amounting to less than one-fourth this amount have sunk the whole annual revenue, and reduced the surplus funds to 148,000 dollars! But, in addition to all this, the demands of this department upon the treasury have much increased since 1829. Your appropriation last year was \$13,000 more than for the previous year, and \$22,940 more than for the year 1824. In these days of economy, the old furniture for some rooms in the department must be reformed out, and the appearance of things rendered more suitable to the reigning taste of those who rode into power on the allegation of extravagance in their predecessors.\*

Looking to the reasons pressed with so much earnestness by the gentlemen from New Hampshire and Tennessee, I ask them how they reconcile their argument with the Postmaster General's own statements of his great savings. In his report of November, 1829, (referring to these improvements in mail transportation, which they now tell us have sunk the revenue so much,) he says "the new contracts have been made, including all the improvements, for \$19,195 37 per annum, less than the sum paid under the expiring contracts." If this, and the allegation of economy which his advocates have made, be true, what has become of the money he found there when he entered the department? Sir, these advocates may stifle this inquiry for the present, yet, unless they can render some better excuse for the abstraction of these funds than has yet been given, the public will say it is owing to a want of skill or

\* The appropriation from the treasury this year, for the Post Office Department, made since this debate, is 20,000 dollars for extra clerk hire, of which 15,800 dollars is extra clerk hire since March, 1829. The whole draft on the treasury, to sustain the department now, being annually about 80,000 dollars.

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a profligate expenditure; and looking back to the days when John McLean administered its concerns, with the aid of all the able and faithful officers who have been since removed, they will demand an inquiry into the reasons which have occasioned their proscription, and those who represent them shall not dare to refuse it.

But, sir, I have used, it seems, an unfortunate expression. "Proscription" is itself proscribed. The gentleman from Tennessee, with his nine causes of removal, complains of the use of the word most grievously. His delicate organs, and the still more tender sensibilities of the Postmaster General, are not to be assailed by so unseemly a phrase, and he makes a hit at the Senator from Maine for daring to say "proscription." Sir, we shall hardly be driven from the appropriate use of the offensive phrase, even though the chief of this department should be subject to fainting fits at the sound. It is a word of such "exceeding good command," that he and his advocates must pardon me if I try how I can speak it in pure emulation of my friend from Maine, to whom the member from Tennessee, having most exquisite organs to judge between us, but not yet having given me a fair hearing, has awarded the palm for pronouncing it better than any other man in this nation. I say, then, in the name of an insulted and abused people, to this chief of a department, who has driven hundreds of better men than himself from the public service, that, although his advocate here has forbid our tongues to speak of "proscription," yet I would that every victim of his unmerited displeasure might find him when he lies asleep, and halloo in his ear "proscription."

"Nay, I would have a startling taught to speak  
Nothing but "proscription," and give it him  
To keep his anger still in motion."

He should be met at his incomings and his outgoings, and every honest man should ring it in his ears until the effects of his proscription are properly appreciated by him. And now may I ask the gentleman from Tennessee, whose nerves are so sensitive on this subject, how, in his judgment, I pronounce the word proscription?

[Mr. GAVIN—exceedingly well.]

Then the honorable member will, I hope, hereafter hesitate to decide before he has heard all the evidence. May the good word never be laughed out of countenance by any political wit snapper who may be displeased by its use. For the present, I fear much that the effect of the vindictive spirit which has actuated this department may not be properly appreciated, for it has been alleged here, that this proscription meets the full approbation of the President, and his name has been used as a political *deamatur*, to hush the inquiry into repose. This sounds the tocsin of party, and invokes the aid of that influence which can at all times successfully suppress truth and propagate falsehood. We may despair in such a contest, and be compelled to acknowledge that if he who presides over this republic has sanctioned all this proscription, we are too powerless to obtain redress. But it will be soon seen whether there be not one man in this nation able to breast its terrors when even the President hurls his thunders. There are hawks abroad, sir. Rumor alleges that the plundering falcon has lately stooped upon a full winged eagle that never yet flinched from a contest, and, as might be naturally expected, all await the result with intense interest. It is given out that the intended victim of proscription now is one distinguished far above all in office for the vigor and splendor of his intellect:

—"Micat inter omnes  
Velut inter ignes luna minores"

One who has been a prominent member of the party which gave power to our modern dictator, is to feel the undying vengeance which can burst forth after the lapse of twelve years, for an act done, or a word said, in a high official station, and under the solemn obligation of an oath. But

if that energy and firmness which have hitherto characterized him through life, do not now desert him in this his hour of greatest peril, we may yet live to see one who has been marked out as a victim, escape unscathed even by that power which has thus far prostrated alike the barriers of public law and the sanctity of private reputation. In the mean time let it not be forgotten, that the injuries inflicted by that proscription which levels first at the office, and then at character to justify the blow, is not less severely felt because the sufferer has not moved in a splendid circle. The "beetle" we tread upon may feel a pang as great as when a giant dies;" and, looking to the case to which I have alluded, may not the hundreds who have felt the sting of unmerited reproach fairly invoke the sympathies of others who are now made the objects of an attack not less unmerited and unrelenting in its character than that which their humbler efforts may have been unable to resist?

[It being now half past four o'clock, Mr. C. yielded to a motion for adjournment. On the succeeding day he proceeded as follows:]

Mr. President, however offensive it may be to the members from New Hampshire and Tennessee, to observe that they have played the advocates of the Postmaster General, I must be permitted to repeat that remark in sheer compliment, when I see the dexterity and adroitness with which they have defended him. They represent themselves as being in a minority of the committee, when, according to my view, on all important questions, they, with the member from Indiana, are certainly in the majority. But these two gentlemen object and cavil at every step we take; they even seek to stifle the inquiry by an appeal to the Senate; and, to crown the climax, they attack the witness who is brought before us, as soon as he makes a disclosure of the indebtedness of the Postmaster General to the Government. Nay, they go further: they provoke a debate here, in which the committee is involved, to the great obstruction of the inquiry, and in the very commencement of that debate they attack the gentleman from Maine violently, for daring to ask a question which they are fearful the witness should answer, but which they say is unbecoming, and intended to make false impressions. Going beyond the whole question here, too, a blow is levelled at all those who wish to obtain light. The very judgment of the Senate, in commencing the inquiry, is impugned. These are the tricks of certain advocates when defending a desperate cause. It is the usual subterfuge of guilt, first to impeach the witnesses, and then to intimidate, or denounce in advance, the jury and the judges. But why and how does the honorable member from Tennessee attack Mr. Bradley? In the first place, to introduce the subject, he volunteers the new information, that the committee has inquired whether the Postmaster General be indebted to the Government, and states a case in reference to which the Senate ought not to be called on to form any opinion until the evidence is before us. He says, Mr. Fowler, of Kentucky, had given a bond as postmaster, in which Mr. Morrison and others were sureties; that, afterwards, Mr. Fowler gave a new bond, in which Mr. Barry was a surety; that while Mr. Meigs was Postmaster General, the first bond was given up by Mr. Meigs, or, as the honorable gentleman was pleased to insinuate, by Abraham Bradley, the Assistant Postmaster General, and he denounces the giving up of this bond as the greatest enormity that ever occurred in this or any other country. He even volunteers as a witness, and gives hearsay evidence in behalf of the distressed Postmaster General, whose cause, it seems, already requires all kinds of evidence to help it out. Now, sir, I must acquit the honorable gentleman from Tennessee of any design wilfully to calumniate Mr. Bradley. He has been misled by others. I pretend not to impugn his motives in debate, because it would not comport well with what I feel to be due to

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my station here. But if the Postmaster General has misled the member on this subject, and directed his defence here to be conducted by this stale and miserable subterfuge of attacking the character of the witness in advance, let me tell him, in advance, he cannot screen himself by such an effort. When the question of his own indebtedness comes to be understood, as it will be by an intelligent public, it will wear a very different complexion from that which the honorable gentleman has represented. But we have not taken half the testimony of this witness; and in this state of the investigation I will not follow the example of the member from Tennessee, by prejudging the liability of Mr. Barry on this post office bond. It becomes my duty, however, to expose the motive of the department for this attack on the witness. The gentleman from Tennessee has mentioned a certain letter, which Mr. Bradley addressed to the President, and attempts to forestall public opinion on the subject of the contents of that letter. He will pardon me, then, if I exhibit to the Senate the head and front of Mr. Bradley's offending, premising that his life and character\* have, in the estimation of all men, stood above reproach, until the breath of proscription endeavored to taint it, and that his oath to the truth of the matters stated in this letter was first taken in the committee, after which the letter was rejected, and refused to be received as evidence by the majority of the committee, the Senator from Maine and myself dissenting. I ask the Secretary to read the letter:

The Secretary accordingly read the following letter:

[Letter of Abraham Bradley, late first Assistant Postmaster General, to the President, to the truth of the facts contained in which, his oath was taken by the special committee of the Senate.]

"CHEVY CHACE, (MD.) October, 1829.

"The President of the United States:

"SIR: It is not without reluctance and anxiety that I venture to press upon your consideration the subject of the following remarks. I am aware that he who comes forward as an accuser, does not always excite our better feelings; but I am aware also of the rights and duties of a citizen.

"I address you as the chief of the nation, as one the aim and object of whose life must be to adorn his station by a just and impartial execution of the laws which are the safeguard and protection of all, and by a wise scrutiny into the acts, capacity, and fitness of those whom you have appointed to administer the details of those great concerns which are of vital importance to all.

"Not knowing your particular feelings towards the individual whose conduct and character have furnished the occasion of this address, it may be my misfortune, in addition to the distrust with which such communications are too often read, to have to contend with the predilections of a friend; if so, it will occasion me regret, but will not diminish the confidence with which I rely on a patient perusal and mature consideration of what I shall say.

"I proceed, sir, at once, to lay before you the following charges and specifications against William T. Barry, Postmaster General of the United States:

"CHARGE 1st. That he is indebted to the Government.

"Specification. In the year 1818, John Fowler, then postmaster at Lexington, Kentucky, was indebted to the

General Post Office. His sureties were applied to—they begged indulgence, proposed to pay a part of the balance then due—that a new bond should be given, and the old one should be cancelled. This was done. The new bond was joint and several.

"William T. Barry, now Postmaster General, was one of the sureties in the new bond. Mr. Fowler fell in arrears to a greater amount than ten thousand dollars, which was the amount of the new bond. These sureties had been repeatedly called upon, and at last suit was instituted against them, and among them against Mr. Barry. All this will appear by the books of the department, and by letters there filed. By the former it will appear that Mr. Barry is now indebted to the United States to the amount of ten thousand dollars.

"Remarks. It is said that the money paid by Mr. Fowler after the new bond was given, was applied to the extinguishment of the old debt, but should have gone to the credit of that under the new bond.

"And that the suit against William T. Barry was decided in his favor by the court.

"Independent of the known rule of the common law, that when a man is indebted on two accounts, and pays money to the creditor, without directing to which account it shall be applied, the creditor may apply it to which account he pleases, it has been the usage of the General Post Office to apply moneys paid by a postmaster to the extinguishment of the balance first in order of time standing against him on the books.

"Again: It appears, by the certificate of the clerk of the court in which the suit was brought, that although it was in the first instance decided upon the demurrer by the defendants in their favor, yet the judgment was afterwards opened, and the suit dismissed, so that the United States might begin *de novo*; and the indebtedness of the party still remains evident from the books and records of the department over which he now presides.

"CHARGE 2d. That he has paid money in advance, contrary to law, for work to be done.

"Specification. Some time early in the present year, Duff Green made a draft on the Postmaster General for fifteen hundred dollars, payable ———. Mr. McLean, then Postmaster General, accepted it, to be paid when printing to the amount should be completed by the drawer, for the use of the department. The draft was cashed by one of the Washington banks. At maturity it was presented to me for payment. I presented it to Mr. Barry, and stated that nothing of moment was due to the drawer; and that there was a law prohibiting the payment of money in advance, and making it imperative on the President to remove any officer who paid any sum beyond the amount earned, or the value of work delivered. Mr. Barry prohibited its payment, and it was refused. I was afterwards informed that he said this was done without his knowledge. I went to him and recalled to his memory the conversation we had had, and that I had followed his direction in refusing to pay it, and then read the law to him; he also read it himself, and said Green was wrong, and it could not be paid.

"Not long afterwards it was again presented to Mr. Barry, the Postmaster General; he said something about the law, and his engagements to Green, and finally ordered it to be paid—this was done.

"Remark. The law says, in such a case, the President shall remove such officer from office. That officer was not ignorant of the law, nor did he misapprehend it; for he had not only refused to pay this in the first instance, and confirmed it a second time, but there had been several other instances of a similar character, in which payment had been refused. The books of the department will show, I believe, four other cases of advances of large sums made by his particular order, but I have no memorandum of them, and one instance is sufficient.

\* Mr. McLean, the late Postmaster General, in his letter to the committee of the 26th February, 1831, says: "Respecting Mr. Bradley, I have to state, that from the time I became intimately acquainted with him, I have had the highest confidence in his integrity. During my connexion with the department, his time was faithfully and assiduously devoted to the public service. In private life, Mr. Bradley is without reproach."

“CHARGE 3d. A disregard to the economy of the public funds under his control.

“*Specification.* In the early part of the year 1828, Mr. Harrell, who carries the mail in stages between Georgetown and Charleston, South Carolina, was required by Mr. McLean, Postmaster General, to start from the former place at 3 A. M. instead of 5 A. M., and to arrive at Charleston at 3 P. M., instead of 5 P. M., having in either case twelve hours to perform his route through a smooth and champaign country. After having made the change as required, he charged the department one thousand eight hundred and fifty dollars a year for three additional teams said to be required in thus expediting the mail, and demanded that sum. Mr. McLean refused to make the allowance. Harrell procured a representation from several gentlemen, to the effect that he had put on three additional teams in consequence of the increased expedition, and that the amount charged was not too high, and a certificate from Mr. McDuffie, that, although he was not acquainted with the facts, he knew those gentlemen were respectable and entitled to full credit. Mr. McLean directed me to return for answer, that, as the contractor had the same length of time to perform his route in, the law did not authorize him to make any allowance. Afterwards Mr. Harrell came to the office, applied to Mr. Barry, who directed Doctor B. to write to Harrell that he should be allowed nearly one thousand eight hundred and fifty dollars for that increased expedition, from April 1st, 1828, until the end of his contract, and ordered the pay to be made for the past year. Thus more than five thousand dollars has been paid or engaged to be paid, without sufficient reason, and contrary to law.

“2d. Messrs. Mallets carry the mail from Fayetteville, North Carolina, to Camden, South Carolina. They applied to Mr. Barry for an increased allowance of five hundred and fifty dollars a year, which he ordered to be made, without assigning any reason, which is required by law in cases of increased allowances. Application had been made to the late Postmaster General, but he declined making any, not seeing any ground or cause for such allowance. I am also informed by my brother, Doctor Bradley, that other increased allowances were made by him to these gentlemen, amounting with the above to three thousand dollars a year, no adequate grounds existing for such allowance. But as I have no access to the books of the department, I will not make a specific charge of that fact, but merely state it as a subject worthy of inquiry.

“3d. The mail is carried between Mobile and New Orleans, partly in stages and partly in boats, three times a week, and costs six thousand dollars a year.

“Applications were made to have this mail carried in steamboats; the distance is called one hundred and thirty-four miles. He had it advertised with that view. Between New York and Albany, one hundred and fifty miles, the mail is carried six times a week during the season in steamboats for four thousand dollars a year. Between Baltimore and Philadelphia, nearly one hundred and twenty miles, steamboats and stages daily at 5,000 dollars, during the year.

“Mr. Barry has made a new contract for this route of one hundred and thirty-four miles only three times a week, stipulating to pay twenty-five thousand dollars a year. By this contract the mail will arrive at New Orleans one day earlier than it did before. But there are three other expensive routes leading to New Orleans: these already more than absorb the proceeds of the post office, which are less than twenty-five thousand dollars a year. In the four years for which the contract is made, it will cost the public seventy-six thousand dollars more than it would to carry it as it is now carried, and no material advantage is to be gained.

“*Specification 4th.* The law requires the advertisements

inviting proposals for carrying the mail to be published for twelve weeks at the seat of Government, and the usage has been to publish them once a week in two papers. The advertisement of this year is a short one, and would have cost for one paper once a week from six hundred to eight hundred dollars. The proprietors of the National Intelligencer publish a daily and tri-weekly paper, and publish the advertisement in the latter several times without any additional charge. But, in order to swell the amount, Mr. Barry employed the Telegraph to publish it every time in the daily paper, every time in the tri-weekly, and every time in the weekly paper. Thus the public pays for publishing it ten times a week, in what is in fact the same paper something modified, useless to the public and a nuisance to the subscribers. Shame seemed to restrain the proprietor from taking the full price, and he reduced the continuances after the first three in each paper from thirty three cents to twenty-five cents each square. Still making the whole cost over 2,200 dollars.

“5th. He has employed extra clerks and agents when the business of the office was as well and promptly done before, and when it did not require others, and has expended money in alterations, ornaments, and what he considers improvements in the building for the General Post Office, without any appropriation or warrant of law. I cannot specify the extent of the cost: the books of the office will show.

“*Remark.* By these means, through his own indebtedness, and by payments and engagements made without reason, the department is involved in a loss of nearly one hundred thousand dollars, and he has been in office but six months.

“CHARGE 4th. His ignorance of, and inattention to, the duties of his office.

“*Specification 1st.* The power of removing and appointing postmasters is one of great trust and importance, and requires vigilance, care, and judgment.

“This he had virtually yielded to C. K. Gardner, before my removal from the office. He is my successor, and I know not how it is now arranged. While in that business, the papers relating to one office were arranged in one bundle; and, instead of giving a brief of the charges against the individual, and the answers of the applicants and their supporters, he merely endorsed a suggestion on the papers that such an one should be removed and such an one be appointed, and the Postmaster General endorsed “approved,” or “let it be done,” or words to that effect. And C. K. Gardner thus made the removals and appointments.

“I would not be understood to state that Mr. Barry never examined the papers; he doubtless did in some instances read them, or a part of them, and the more important appointments were made upon advisement.

“2d. I will illustrate the effect of this—the postmaster at Poughkeepsie, New York, an office of some importance, rendered more so by the interest made for his removal and retention in office, who had opposed the late administration strenuously, and advocated the present, had, it seems, voted for his friend Judge Thompson as Governor. He wrote to me repeatedly about the efforts made to remove him. He also wrote to Mr. Barry. I took a letter to me into Mr. Barry’s room, and told him its contents. “Sir,” says he, “we have fully considered that case, he will not be removed—you may write him so.” I thought it better, from my knowledge of the manner in which such business was done, to apply to Gardner. I did so, and found that a new appointment had been made the day before.

“3d. For some time he attempted to open the letters addressed to him, a paramount duty one would think, and to distribute them among his subordinates. He found himself incompetent even to this. While he did attempt it, he did not peruse them further than to ascertain it was an account, a contract, &c., so that he might send it to some-

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body who had charge or connexion with the branch to which it belonged.

"*Instance.*—On one occasion he received a long letter from a man named Howard, abusing, and I believe preferring charges against me. Without reading it, he sent it to Mr. Coyle, who brought it to me. I advised him to carry it to Mr. Barry, and tell him what it was. He did so; Mr. Barry said, at first, he had never seen it—then, that he supposed it related merely to a clerkship, and did not read it. Mr. Coyle asked if he should not show it to me; he said no—he had great confidence in me—it was of no consequence.

"*Specification 4th.* His substitute for Mr. McLean's plan of accounting for newspaper postage.

"Forms which relate to a business in which more than ten thousand persons are engaged are very material, and should never be changed without great consideration, and very clear advantage. They should be brief, plain, and attended with as little expense or labor as practicable.

"Under the old form, every postmaster was furnished with a blank account, in which was a column for letter postage, one for newspaper postage, and another for free newspapers; a column for the day of the month, and for the office or mail from whence received. On the arrival of the mail, the postmaster counted the chargeable newspapers at one and a half cents, at one cent, and number of free, and marked the number and amount on a post bill coming with the mail. Also the same with respect to magazines and pamphlets; from these, when his account was made out, the aggregates were carried out into the columns mentioned in the blank account. This plan was plain, simple, and intelligible. Judge McLean adopted a new plan, and Mr. Barry substituted the following, as nearly as I can understand it:

"The postmasters are, as soon as a mail arrives, to separate the newspapers into as many parcels as there are papers of different names. The name of the printing office, and the number from each, with the rate of postage, is to be set down in an account kept especially for that purpose. There are probably, in the United States, nearly four hundred newspaper establishments. During the session of Congress, here and at some of the large offices, papers are received from almost every establishment in the country. Supposing papers to arrive only from one-half of these, on any one day, it would require the writing of two hundred lines, or four pages of large paper, before the newspapers would be in order for delivery. This would occasion so much delay that the public would not submit to it—it is therefore impracticable. I send herewith the form and instructions, that you may see that it is as unintelligible as it is impracticable, marked No. 1.

"It may be wrong to call this Mr. Barry's plan; it was at least adopted by him, and shows his inattention to, if not ignorance of, the details of his office.

"*Specification 5th.* His circular to postmasters.

"The first object assigned for its publication, is the embarrassed state of the funds of the department, and it concludes with the same. And it is to be inferred that that great object, the replenishment of the funds, is to be attained in part by preventing the abuse of the franking privilege, and by carefully charging double, triple, and other letters, to the full extent of the law, and by the non-reduction in cases of excess, in those respects, unless the letters were opened in the presence of a postmaster or his clerk.

"Every one at all acquainted with the subject knows that those abuses never went to any important extent. The President, and higher officers of the Government, whatever exuberance there may be in the expressions, will not believe it intended for them. The postmasters are, as a body, men of honor, integrity, and standing in society, whose oath of office is a sufficient guaranty against such an abuse.

"The second is a strained and improper construction of the law regulating postages. The origin of that law was this: A postmaster had been threatened with a suit if he did not abate the postage on a letter delivered from his office, averred to be overcharged, which the postmaster doubted. He applied to the Postmaster General, (Mr. Granger,) who directed the abatement, but, when the law was revised, in 1810, had the clause (misconstrued by Mr. Barry) inserted, in order to protect postmasters from suits. Such was the construction given to the law at that time, and the practice since. Mr. Barry has, in his circular, made the postage marked on the letter and the post bill exclusive evidence; whereas the law only makes it conclusive in cases of prosecution, the opening in the presence of the post officer excepted. The postmasters always exercised a discretion, and denied or granted the abatement, as they believed or doubted the man claiming it, or other evidence he might produce.

"But the true object of the circular was to convey an idea to the public that the office was distressed and embarrassed in its funds by his predecessor. This was not true, as the books will show, and Mr. Barry might have ascertained, if he had not been ignorant or inattentive to the duties of his office.

"*CHARGE 5th.* His incapacity.

"A man in the high and important station of Mr. Barry has frequently cause to analyze and investigate. I have lent my attention in vain, on various occasions, to discover these capacities; and I cannot doubt that the want of them has frequently been obvious to you. No greater evidence need be given of these deficiencies than the specifications mentioned under the third charge.

"I have rarely seen a man occupying any thing more than an ordinary situation in society so ignorant of the geography of the country. A Postmaster General uninformed on its topography, a knowledge essential to the office, of the courses and characters of its waters, of the ranges of its mountains, but even of the particular relations of its principal and prominent places to each other, would seem to be equivalent only to something monstrous in natural economy. Yet this might be remedied if he could apply himself, with the zeal, fidelity, and perseverance of his predecessors, to the broad field of the whole country, and not weary himself by a narrow and contracted view of some particular portion of it.

"Of some of its important statistics, the population, the character and pursuits of the people in various parts, essential to estimate the necessity or importance of a mail, and the frequency or expedition with which it should be carried, he is entirely ignorant, and has no quality of the mind suited to the acquisition of such information. His memory is defective, or of a character which I will not offend you by speaking of: he frequently forgets important transactions, executed under his immediate direction, soon after he has given the order. He cannot even recollect upon what ground the suit against himself, on Mr. Fowler's bond, was decided. Witnes, also, the refusal of payment to Duff Green, the order to Mr. Coyle, and the Poughkeepsie case. No property of the mind is more essential in such an office as his, than this one of memory.

"2. He permitted an inferior clerk in the department to devise and write the circular alluded to, and then copied, and showed it in his own hand, as his own production.

"3. The reasons assigned for the removal of Mr. Hawkins, the postmaster at Frankfort, Kentucky, is a striking instance of that want of reflection and judgment which has characterized his official life.

"For the act he is responsible to you alone, and I do not profess to know the real causes which led to it. I leave it, without comment, to your decision. But the circumstances arising out of it are material; and, although it may require some detail, I must beg, sir, your indulgence while I relate them.



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"After Mr. Hawkins's removal, Mr. O. B. Brown, one of the clerks of the department, but on a different branch of business, directed a clerk, whose duty it was to make out statements of postmasters' accounts for suit, to make out that of Mr. Hawkins. In execution of this order, he met with the usual mark of a draft for a considerable amount, credited in pencil to Mr. Hawkins; and, as he doubted, not finding in whose favor the draft was made, he applied to Mr. Brown for instructions. Brown directed him to omit it, and to make out the account as posted in ink. Johnson did so. Brown directed him to bring it to me for my signature; and, upon Johnson's answer to my inquiry it was all correct, I signed it. Johnson gave it to Brown, who forwarded it to the Fourth Auditor of the Treasury, who, as he says, put it into the hands of the Marshal for suit. There is in the office a lawyer, who is charged with the duties of a solicitor for the office for all the debts of persons whose employments have ceased. All this Mr. Barry was privy to. Afterwards, I discovered the account was erroneous, and conferred with Mr. Barry on the subject. The whole of this seems to have been a device of Mr. Barry and Co. to justify the removal of Mr. Hawkins, by making him appear a great debtor, and that it was necessary to the security of the public to sue him immediately; thus wielding the public force for the gratification of his revenge. It was with difficulty I persuaded him to let it rest until time should be given to adjust the accounts, to furnish him with a copy, as in other cases, and to make a call for payment. I could not persuade him to agree that a draft should be made for the amount; but he insisted he should pay by a deposit in a bank thirty miles distant, and otherwise inconvenient, upon a short notice: and yet he not only retained Mr. Brown in high favor, but rewarded him with the appointment of chief clerk. If he had reflected, and had not wanted judgment, he must have been sensible that this was a device, the effect of which, when exposed, would be injurious to himself and to the Government. He compromised his own dignity and his official station, by permitting the Fourth Auditor to interfere in the concerns of his department; he inflamed the minds of Hawkins's friends; he weakened the public confidence in the department over which he himself presided; he alienated others from the Government, by exhibiting false causes for removing an officer under his control. Taking all these things in connexion with his advance to Duff Green, his allowances to mail contractors, his employment of agents and clerks, and his Mobile contract, and I think the charge is fully sustained.

"CHARGE 6th. His want of integrity and veracity.

"Specification 1st. On the 10th of June last, Mr. Barry came into my room for a check for his salary, and, without any previous remark leading to the subject, said, 'I am surprised to find, by the receipt of letters almost every day, from almost every quarter, wishing your continuance in office, that an apprehension has gone abroad that there was an intention to remove you. I can assure you that I have long been advised of your faithful services, and such a thing as your removal has never once entered my head. You may be assured that your continuance in this office will be as permanent as my own—that is, I have no suspicion that any adequate cause will arise; for that there may be exception. You, therefore, may be perfectly easy on that account.' These assurances were repeated through others, as I was advised, by his direction; and, from his deportment and language, I had no reason to doubt them, until I received the following note:

"POST OFFICE DEPARTMENT, Sept. 14, 1829.

"Sir: I have appointed Colonel C. K. Gardner my assistant, and do not require your services any longer in this department.

"Very respectfully, your obedient servant,

"W. T. BARRY."

"MR. A. BRADLEY, Present."

"On the 15th September he requested my son 'to assure me that he had the highest respect for me, and the utmost confidence in me.'

"Specification 2d. Mr. Coyle had been chief clerk in the Post Office Department, and was removed to make room for the author of Mr. Barry's circular. After his removal, he published several letters addressed to Mr. Barry. The latter informed my brother that two of the clerks in the office had undertaken to answer Mr. Coyle. The second of these answers contained a side attack upon me. As soon as Mr. Barry came to the office the morning after its publication, I told him it was an entire misrepresentation of facts as it respected both of us. The case was this: Mr. Scott, a clerk in the office, had been very ill last year. He came to the office late in the fall, excessively pale and emaciated; and stated that his illness had impoverished him, he had spent all that he had, anticipated all he could; winter was fast approaching, he was destitute of food, proper clothing, and fuel; that, while the salaries of other clerks of his standing had been raised to one thousand dollars, his had not been raised. Judge McLean concluded to make him an allowance of one hundred dollars, which I paid him.

"A list of clerks and their accounts was made out for Mr. Barry, and that sum nearly appeared against Mr. Scott. He died leaving his widow in great distress. Her friends applied to Mr. Barry to pay up his salary to the end of the month, which he directed should be done. Mr. Coyle applied to me in behalf of the widow for the pay. I showed him the balance, and told him it could not be paid until it was squared—advised him to apply to Mr. Barry for an order for the proper credit, and to state the subject distinctly. He returned, and said Mr. Barry had directed him to make the credit. I asked if he was sure he understood it. He said he appeared to do so. I told him I would go myself, two witnesses were better than one. Mr. Barry denied having given the order. I then stated the case fully, as far as I recollected it at the moment. He told me I might tell Mr. Coyle to enter the credit. Instead of this, I called him in, and Mr. Barry gave the direction to him again. Mr. Coyle made the entry agreeably to this order.

"The answer charged the payment as being made in advance, (intended for me,) and a credit by Mr. Coyle as an act out of his line of duty, and for base motives, without any authority from the Postmaster General. After recalling these facts to his memory, Mr. Barry said if I would write a note to him in explanation, he would have it published. I prepared a note expressed in the mildest form, with which he appeared pleased. A few hours after, he informed me Mr. Green declined publishing any more on the subject.

"Specification 3d. His conduct in relation to my removal.

"On the 14th September last, soon after I went to my office in the morning, a servant placed upon my table the note, a copy of which I have already presented to you, dismissing me in a very uncourteous manner from my office. In a few minutes after I had read the note, the servant came and informed me it was left by mistake, and Mr. Barry wished its return. Not long after, he returned again with the note, and said, 'Mr. Barry says it is of no consequence, as you have read it; he did not intend to send it until evening.' I immediately put up such of my private papers as were convenient, and retired. In the course of the day, some of my friends called at my house, and strenuously advised me to tender the keys of the post office treasury to Mr. Barry, they being apprehensive, unless it was done, I might be attacked in the Telegraph; that my old friends were too much shocked to do much work, and this might be attributed to my having the keys, &c. Under these circumstances, I was induced to have the keys offered to Mr. Barry, the moneys being untold,

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not imagining he would accept them. He did take them, and the same evening delivered them to my successor.

"I reflected on the subject, and it seemed so reckless of my own character to run the risk of his accepting them in such a circumstance, that the reflections, you may be assured, were unfavorable to sleep. As soon as the morning dawned, I sent a duplicate key, (which had been overlooked,) to my sons, in town, requesting them to go as soon as the office was opened, count the money, and deliver it over to Mr. Barry. My eldest son did go to the office for that purpose; after waiting there until half past eleven o'clock, he went to Mr. Barry, and told him it was my request that he should count and deliver over the money, and delivered him the duplicate key. Mr. Barry replied, it is all perfectly right.

"Thus, Mr. Barry, instead of refusing the keys, as he should have done, took them; instead of retaining them in his own possession until he saw me or some one in my behalf, put them into the hands of a person of whom I will not permit myself to say one word, and to my authority to my son to count and deliver over the money to him, gave an evasion.

"On the 19th, a clerk called upon me, and proposed to count the money on the 22d; that is, after it had been in their possession eight days. On the 25th of September, I received a note from two of the clerks, stating that they were directed to give me notice that they were authorized to count the money on the 28th, that is, after it had been out of my possession fourteen days nearly; of these I took no notice. I conceived it to be a mockery and an insult to send a notification after the answer Mr. Barry had given, through my son. Yet, notwithstanding all this, Mr. Barry authorized the publication of a vile paragraph in the *Telegraph* on the 28th of September, giving a false coloring to the transaction, and not alluding to the interview between my son and himself on the 15th September, in which he was informed that I desired the money might be counted that morning.

"I stand prepared to make good every charge and specification I have presented to you: that he is indebted to a large amount to the very office over which he presides: that he has wasted the public funds: that he has paid money in advance contrary to law: that he is ignorant of and inattentive to the duties of his office: that he wants capacity for the office which he holds: and I impeach his integrity and veracity.

"I have but one particular more to notice. The letter by me to him, and published in the *Telegraph*, was intended to be private, and put him on his guard.

"It contains no threat, but plainly tells him what I intended to do, and believed I could do. It does not contain a syllable disrespectful towards yourself; but expresses a firm reliance on the propriety with which you will inquire and decide against him. It puts him on his guard against any reliance on your too favorable opinion of him, for I thought it a paramount duty in you to disregard such opinions; and, in the present excited state of the country, so firmly am I convinced of being able to sustain the charges I have made, I believe it would lead to unpleasant measures as it respected yourself. Such a communication I should not have made to you, I have not made to the public; if there was any thing offensive in the letter, it only became so by its publication, for which Mr. Barry alone is responsible.

"I have the honor to be, sir, with great respect, your obedient servant,

"ABRAHAM BRADLEY."

"Since writing the foregoing, I have been informed of allowances made to two contractors for merely expediting the mail, to the amount of nine thousand dollars a year; the alterations would not be estimated of the value of from one-fourth to one-third of the sum, and of little importance to the public."

Mr. CLAYTON resumed. You see, sir, from this letter, how necessary it is, for the very existence of the persecuting power exercised in this department, that Mr. Bradley should be crushed. If he stands, it must fall. Bradley has encountered the strife, though he well knows the fearful odds against him—for he has to struggle against more influence, more patronage, and a spirit more vindictive than exists in any other department of this Government. Yet, relying on the justice of his countrymen alone, he bares his head, now grown grey, after more than thirty years' faithful public service, before the storm, and defies its vengeance. A private citizen, he can no more be driven from office; on the verge of the grave, he can never expect to be again employed in the public service. Yet, as an honest man and a patriot, he feels it to be his duty, when called upon by a committee of this Senate, to lay bare the transactions of this department; and I will venture to predict, that in future history his character shall stand brightly out, while those of his designing calumniators shall be remembered only to be despised.

It is unnecessary to stop to inquire why the President refused to hear Mr. Bradley in corroboration of the statements contained in this letter, though we know from the oath of the witness that he offered to prove every part of it. If inquiry is now to be suppressed, we can readily understand why it was then avoided. Some excuse has always been devised whenever investigation has been sought, and, until a change of times, it will always be so. Thus, even at this day, no answer has been returned by the department to any one of all the numerous interrogatories which the committee addressed to it on the 24th of December last. Yes, sir, nearly six weeks have elapsed, and the receipt of that communication has not even been acknowledged. Yet I thought, while on this subject, the member from Tennessee sought to implicate me as chairman of the committee, for withholding communications from the department.

[Mr. GRUNDY here explained, and disclaimed any such expression or intention.]

The gentleman's explanation has saved me some trouble. Yet, sir, it may be well now to put a stopper forever on all such wretched surmises, by making a brief statement of what has occurred. Three letters were addressed to the Postmaster General by the committee—one on the 24th of December last, being the most important, and that which inquired into most of the concerns of his department—another on the 18th, and the third on the 27th of January. That of the 18th of January also contained several important inquiries. Like its predecessor of the 24th of December, it remained unanswered and unnoticed until the 31st of January, when the letter of the 27th, inquiring only as to the single point of the Postmaster General's indebtedness to the Government, was answered by one letter, in which an attempt was made to throw the blame of the loss of the sum of \$10,000 (the amount of Fowler's bond) on Meigs, or some other person, because Morrison's bond had been cancelled and given up to him; and the receipt of the letter of the 18th was barely acknowledged, but that of the 24th of December, the most material of all, was entirely unnoticed, although he had been particularly requested to inform us whether he had received each of them. [Here Mr. C. read the letters.] Thus, you see, sir, with what justice I complain of the refusal even to notice the receipt of the most essential interrogatories. The acknowledgment in his letter of "interrogatories formerly submitted," admitted nothing as to the letter of the 24th of December, though the gentleman from Tennessee has emphasized the word formerly, as if, in his opinion, that was a recognition of that specific letter. The Postmaster General might now safely deny having ever received that communication, because his expression is fully satisfied by referring to the "troublesome" interrogatories in the letter of the 18th of January. After a

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month's silence on his part, the question was put to him on the 27th ult.—“Have you received the letters of the 24th of December and of the 18th of January? If so, acknowledge it.” The answer is—“I have received your letters of the 18th and 27th of January.” It is necessary only to add, that the two brief communications from the Postmaster General, received on the 1st of February, were mentioned to the committee at our first meeting thereafter, on the next day were laid before them, and that their whole contents were fully stated on the day after they were received in the public debate here, which the gentleman from Tennessee introduced.

Now, considering this extraordinary state of things, in which we can get no information from the department, is it not surprising that the gentleman should still insist, when we propose to examine a witness, that we should inquire first of the department? A letter was put into my hands by the Senator from Virginia who sits near me, [Mr. TAZEWELL,] from a citizen of that State, whose character as a most respectable man was vouched for by that Senator. That letter now lies before me. It contains plain, unequivocal charges of “partiality, mismanagement, fraud, and corruption,” in the southern contracts made during last October, for transporting the mail, alleging that higher were preferred to lower bidders, without cause, and thus offering to account in part for the waste of the funds. The writer desires that the committee should investigate the matter, and offers himself with the names of some half a dozen other most respectable men, living in Virginia and North Carolina, whom he desires us to send for as witnesses, to substantiate the charges. The letter is laid before the committee. The charges are so strong that it is considered by the committee necessary to ask for power to send for persons and papers. The power is granted by the Senate; and as soon as the committee meet to exercise the power in the very case which induced them to ask for it, the members from Tennessee and New Hampshire, joined by the member from Indiana, [Mr. HENDRECKS,] resolve that we shall call on the department, to see if we cannot find in the Postmaster General's own hands sufficient affidavits and correspondence to substantiate these charges against him; and that, after we have ascertained that we cannot find the proof there, we may send for the witnesses. This is determined when it is certain, from the distance of their residence, that any delay in sending for the witnesses must effectually prevent our obtaining their attendance. At the same time, objections are made to the taking of any depositions. The gentleman from Tennessee and myself are appointed to call on the Postmaster General, to learn if he will not convict himself without more proof, and, as he [Mr. GRUNDY] has stated in debate here, whenever I requested him to go, he always informed me the Postmaster General was sick and could not see us. So we did not go. In the mean time it became useless to send for the witnesses. We were within a few days of the end of the session, and thus, by a slight exercise of ingenuity, this part of the investigation was effectually suppressed.

[Mr. BENTON here called Mr. C. to order, and insisted that the proceedings of the committee should not be stated in debate.

The CHAIR decided that Mr. C. was not out of order, and that he had a right to show the proceedings which had been so often referred to by all the members of the committee who had spoken before him.

Mr. BENTON appealed to the Senate.

Mr. GRUNDY said, he and all the other members of the committee had commented as fully as they pleased upon the proceedings.

Mr. BENTON withdrew his appeal.]

Mr. CLAYTON proceeded. It would be well, Mr. President, for all such as wish to suppress debate as well as inquiry, to bear in mind, before they attempt it again,

that the whole discussion is not one of my seeking; that, like the resolution before us, which of itself discloses some of the proceedings of the committee, it had its origin with those only who desire to arrest these proceedings. And I will add, that the attempt is but another evidence of that disposition to prevent information on these subjects, which I was proceeding to expose.

It has been stated, that, when a proposition was made in the committee to send for Mr. Hand, the solicitor of the department, to give testimony as to the state of the funds, the proposition was rejected. This officer has the collection of all the outstanding balances, and, of course, could have shown us better than any other person what part of these funds are available. He could have produced his estimate of those funds at the time of the resignation of the late Postmaster General, and we should then have been enabled to judge whether the statement in the late reports of losses on these balances be true or false. But here was danger, sir. What was the result of the apprehensions it excited? Why, it was determined by the gentlemen from Tennessee and New Hampshire that Mr. Hand should mind his business, and that the information ought to come from the Postmaster General himself. [Mr. C. here read the journal of the committee on this subject.] Thus, you see, sir, while the Postmaster General is withholding all information from us until some few days before the close of the session, when we cannot even examine his communication, we are, by the votes of these gentlemen, prevented from seeking information from other sources.

I shall not dwell, sir, on the rejection of Mr. Bradley's letter—on the opposition of these gentlemen to his examination—on the numerous objections which they have taken to his evidence at different stages of the inquiry, and which will prevent us from ever closing his testimony, or taking any part of that of many other witnesses who remain to be examined. But I will venture to predict that, at the close of the session, and at a moment when it will be impossible for any one to examine his communication, Mr. Barry will report, and not till then.\* But it is my duty, foreseeing, as I do, this result, and having observed all the shuffling which has occurred, to say now that as no man can be condemned without a trial, so, too, there can be no acquittal without it.

It has been told us by the gentleman from Tennessee, that, should this inquiry proceed, Mr. Barry will refuse to answer it. It may be so, sir. We have indeed fallen upon evil times. Yet I doubt much whether any chief of a department dare refuse to answer to the Senate while that body retains the spirit to vindicate its rights. And if the day has indeed arrived when our power can be so contemptuously slighted—when we can be braved by every chief of department or petty executive officer, it is time that we should leave our seats, and suffer the people to send men of sufficient energy to represent them here, who will ascertain the means by which every puny whipster gets the sword and defies them to take it from him. Sir, I cannot yet believe that we have fallen so low. It is true that the Postmaster General did, for nearly one whole year, omit to notice the resolution of the Senator from Ohio, [Mr. BURNETT,] inquiring into the matter of the mail contracts. But after this debate arose, and the refusal to present his answer

\* Mr. Barry's report did not come in until the first of March, when, of course, it could not be even read by all the committee, and it contains no answer whatever to any of the interrogatories in the letter of the 19th January, respecting the number of removals and the practice of removing without notice to the accused—nor any to the question whether the revenue had been anticipated by over-drafts on postmasters. It offers only an excuse for not answering the question in the letter of the 24th December “What was the state of the funds on the 1st of October last?” and alleges that the question, “What are the improvements or other causes which have caused the increased expenditure of 150,000 dollars more than was expended last year?” put to him on the 24th of December last, cannot be answered this session for want of time.

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became the subject of complaint, we find that it has been paraded with much of stage effect on the table before us. The gentleman from Tennessee points to it as a very monument of human industry. It contains, he says, work enough to make a volume. By examining it, it will be found that three-fourths of the whole mass consists of printed bonds and contracts; and the residue of the answer to the inquiry which the Senator from Ohio made, might be performed by a tolerable clerk in six weeks. It has not been denied, you observe, that the information as to the contracts of Mr. McLean was, last year, inserted in the resolution by the request of the present Postmaster General; and his own answer to his own question, made with a view to excuse his own allowances by the example of his predecessor, has caused by far the greater part of the labor which that resolution has imposed. Sir, the Postmaster General may safely send here any information, while the gentlemen from Tennessee and New Hampshire stand ready to protect it from examination. This very mass of labor, which it has taken nearly a year to prepare, as the gentlemen would have us believe, after undergoing the careful supervision of all concerned during that time, comes here, and when a motion is made to refer it to this committee, which is examining the subject of these contracts, the gentlemen move its reference to another committee, which it was well known did not intend to examine it, and the whole subject is thus snatched from the investigating committee. Strange, indeed, that an apprehension should be entertained, that in three weeks impeachable matter might be discovered, among a mass of papers, which they say it required nearly a year to prepare. This, sir, is what I term stifling inquiry; and with what countenance these gentlemen can complain of a charge made here, that they have stifled it, after this let the Senate and the public judge.

And now, sir, to return to the resolution. It is declaratory of the limits of the commission under which the committee act, by its very terms. It affirms what is untrue, that we have no power, under our commission, to make this inquiry. The original resolution directs, as we have seen, an inquiry into the "entire management of the Post Office Department." Why do not gentlemen say in terms, that their aim and object is to repeal a part of the powers originally conferred? Why not boldly avow at once, that the boastful defiance of inquiry, at the commencement of the session, when the committee was appointed, was but an empty vaunt, which it is now found necessary to retract? The gentleman from Tennessee says, that he can supply us with all the information on the subject of the causes of removals. He enumerates nine of these: 1st, Intemperance; 2d, Delinquency; 3d, Prying into letters; 4th, Concealing or withholding letters; 5th, Habitual negligence of duty; 6th, Incompetency; 7th, Refusal to comply with the regulations of the department; 8th, Discharging the postmasters' duties by deputies under age; 9th, Living off the post routes. And the honorable gentleman sums up this list of causes with the sweeping declaration, "that he has no doubt there has not been a single instance of removal but for one or other of these causes!" Sir, are we to suppose that the Postmaster General instructed him to make such a declaration? The honorable member can know but little on the subject, of his own knowledge. He lives in a district whose political sins have not demanded such expiation as this of removal from office. But we who live north of the Potomac know, sir, that his enumeration of causes is a gross insult to hundreds of our worthy citizens, who have been removed without any other transgression than that with which, according to the orthodox creed emanating *ex cathedra* here, is denominated political heresy. In the mean time, sir, this declaration of the gentleman shows us how just were our suspicions, that the files of this department have been filled with groundless accusations against the victims of its proscription, which

may sleep there unrefuted, because they remain unknown until, in the lapse of time, when the men have been laid in their graves, these receptacles of filth may be opened by the hand of malevolence, to tarnish the memory of those before whom, while living, the accusers dared not show their faces. His very statement of causes, therefore, exhibits the strongest reason for demanding an exposition of the facts. But, sir, the blow is not merely levelled at the hundreds of removed postmasters. It strikes directly at their late chief, who retained them all in office. The declaration thus made boldly to the world is, that he kept in office some five or six hundred men, who were either drunken, or were prying into correspondence, or were guilty of some other of the enormities enumerated in this list. The answer to it all, is, look at the state of the money chest now, and remember what it was when John McLean was compelled to leave it, or surrender his independence as a man, and become the tool of this proscriptive and arbitrary power.

But the Senator from Tennessee finds another cause for suppressing the inquiry, in what he calls the verdict of the people. The gentleman from Maine had complained of the removal of some twenty-five postmasters in one of the counties of that State. The Senator from Tennessee says he has no right to complain, because the people there have sanctioned the proscription by giving their vote for the administration. Sir, I pretend to know nothing of the case. But I may ask, did the people act with a view to all the subordinate officers of the Government, when they merely approved of the general acts of the President? The conduct of these subordinates was probably no part of the issue joined before the people. From the nature of things, we must believe it could not have been so. So far from passing sentence on the removed officers by their vote, the people probably were engrossed by what they deemed more important considerations affecting the general welfare of their country. But, sir, if they had acted with a view to these offices alone, would it have been quite fair to have urged the force of their verdict upon us? It would not sound well, in any supposable case, to offer bribes or threats to any part of the jury, and then plead their verdict in justification of the act; and the very evil complained of being the influence of Executive patronage on the elective franchise, I do not hesitate to say, without reference to the people of Maine, or any other particular State, that if you can find a case which has been decided by the influence of that patronage, you might as well boast that you had embraced a jury, and point in justification to the verdict, as to plume yourselves upon the effect which that patronage has produced. And if the argument has any weight, what shall be said of those verdicts which the people have rendered in other districts of country, where the proscription has been equally extensive, and where, in defiance of your patronage, the decision has been against you?

There is no department of this Government, sir, in which the people take so lively an interest as the post office. It should be so conducted as to secure their perfect confidence. It should, therefore, have no party character whatever. So anxious was Mr. Jefferson to deprive it of all political connexion, as we learn from his memoirs, that he prohibited the employment of any printer in the department, even so far as to be concerned in the transportation of the mail. Suppose that, in his day, or that of any former President, it had been charged with operating on the elective franchise, and the rights of the States, through the immense influence of an army of dependents, amounting to more than ten thousand men, with subsidizing the press, establishing a system of espionage, and wasting the public treasure in disbursements to political favorites—I ask, would any party, at any former period, have had the hardihood, after an investigation had been set on foot to ascertain the truth of such conjectures, to

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*Thomas Jefferson and his Daughter.*

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suppress the investigation, or to restrict it in any particular, for the purpose of preventing a complete development of all its operations? Yet such charges are now loudly proclaimed against it; such an investigation has been called for, and the very object of the resolution on your table is to close the door against inquiry.

Sir, I have done. In the fearless discharge of my duty here, I may have drawn down on my own head the vengeance of a power, more terrible than any which all the other authorities of this Government combined can wield; but I should have proved a faithless representative, and recreant to the interests of the intrepid people who have never yet bowed to the terrors or the allurements of Executive influence, if I had shrunk from its performance.

*Note by Mr. C.*—The following is an extract from the letter of the honorable John McLean to Mr. Barry, laid before the committee by their order:

“WASHINGTON, March 31, 1829.

“I cannot, in justice to myself and the public service, refrain from recommending the continuance of the Assistant Postmasters General, who have been long identified with the department, and have been faithful to the trust reposed.

“I name those gentlemen to you, because I have understood that efforts are making to remove one or both of them. I should extremely regret such a step, as well on your own account as that of the public. With the operations of the department, I am well acquainted. I am anxious that its reputation shall be sustained, and I am convinced that this cannot be done if the above gentlemen be removed. This remark is made with a perfect knowledge of the facts.”

THURSDAY, FEBRUARY 10.

Mr. BENTON asked and obtained leave to withdraw the bill, which was laid on the table the other day, for the abrogation of the duty on alum salt.

The VICE PRESIDENT took the occasion to say that, after mature examination and deliberation, he was satisfied that he had erroneously decided that the abovementioned bill could not be received. He considered that it was at the disposal of the Senate, as other bills were.

Mr. BENTON then gave notice that he would to-morrow ask leave to introduce a similar bill with some modification.

#### THOMAS JEFFERSON AND HIS DAUGHTER.

Mr. POINDEXTER rose to ask leave to introduce the bill of which he yesterday gave notice. He said that, observing in the Telegraph of this morning, in the report of the proceedings of the day before, an error, by which it appeared that he had presented a memorial from Martha Randolph, the daughter, and only surviving child of Thomas Jefferson, deceased, it was due to the sensibility of that lady, as well as to himself, to state, that, in giving notice of his intention to introduce a bill concerning the only surviving child of Thomas Jefferson, he was actuated solely by his own views of the high obligations of duty, and a desire to rescue the nation from the imputation of a want of gratitude to a departed statesman, who had so largely contributed to the establishment of this Government, and the free institutions under which we live. No memorial was either received or presented on this subject. No intimation whatever has been made of a desire to bring this question under the consideration of Congress by the individual named in the bill, which he had asked leave to introduce. He had no doubt that the error noticed was unintentional on the part of the editor of the Telegraph.

You will perceive, Mr. President, continued the eloquent Senator, that I have brought before this honorable body a proposition calculated to animate the patriotic feelings of every American citizen; a proposition which

has too long slept in the bosoms of those who administer this Government. The name of Thomas Jefferson is identified with the independence and glory of this country. His eulogy is written in the pages of faithful history, and deeply impressed on the hearts of his countrymen. I will not deface the sublime and beautiful picture by any attempt to retouch it with the pencil of an unskilful artist; but it shall be my humble part simply to bring to the recollection of this honorable body the high claims of this eminent philosopher and statesman to the gratitude of the generation who survive him, and leave to others, better qualified for the task, the pleasing duty of illustrating the merits and distinguished services of one whose equal has seldom appeared on the great theatre of the political drama of the world. Washington, Lafayette, and their companions in arms, wielded the physical force of the colonies in our revolutionary struggle. Jefferson, Adams, Franklin, and their compatriots in the cabinet, fought the great moral battle of their oppressed country at that memorable epoch. They boldly asserted those rights and principles, which vindicated our cause throughout civilized Europe, and brought into action the invincible energies of the American people, by whose perseverance and valor the chains of tyranny were broken, and the mercenariness of the tyrant driven from the land which they had dared to invade and desolate with conflagration, robbery, and the sword. Under the influence of feelings honorable to our national character, which have been, on many occasions, signally manifested, the Congress of the United States, a few years past, by an almost unanimous vote, made a voluntary gift to General Lafayette, of the sum of two hundred thousand dollars, and a further donation of a township of land equal in value to the additional sum of one hundred and fifty thousand dollars. This liberality to the hero who fought our battles, who espoused our cause, and shed his blood in our defence, and who has been the uniform friend of liberty in both hemispheres, met the approbation of the people at large. It has never been complained of by the most vigilant guardian of the public purse. Our national gratitude to this distinguished man was due to his disinterested services and sacrifices in the great cause of freedom, and the emancipation of these States from the galling yoke of despotic power, wielded by the unrelenting arm of the British monarch. It has imparted a lustre to the American name far more precious than the price at which it was obtained. Actuated by the same lofty considerations which governed the National Legislature on that occasion, let us not forget the testamentary bequest of the great author of the Declaration of Independence to his beloved country. Jefferson, whose name must be ever dear to the friends of human liberty throughout the world, in the last hour of his existence, bestowing an expiring thought on the political connexion which had so long existed between himself and the American people, and feeling the pressure of his pecuniary circumstances, and the embarrassed condition of his affairs, consoled his agitated spirits by the confidence which he reposed in the justice and benevolence of this nation; and, with his last breath, bequeathed his daughter and only surviving child to that country which he had so faithfully served, and of which he was the pride and ornament. Shall we then fold our arms in cold indifference, and, unmindful of him, whose enlightened mind and unbought patriotism gave impetus to the ball of the revolution, and fixed the great principles of this confederated republic, treat with unkind neglect the object dearest to his heart, which he had so confidently committed to our generous protection?

Shall we limit our liberal donations to Lafayette, and a few others, and permit the only surviving child of Thomas Jefferson to linger in poverty in her native country, while every page of its history points to the glory which has been shed over it by the acts of her illustrious father? I



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hope not. The ingratitude of republics is the favorite theme of tyrants, and of all those who urge that man is incapable of self-government. The despots of the world taunt us with this insulting epithet. We have shown them in the case of Lafayette that we do not deserve the foul imputation. Let us follow up the good example by an equal liberality to our own, our venerated Jefferson, and this stain on the fair fame of the republic will vanish into thin air, and be remembered among the fables of a deranged imagination. I now move, Mr. President, that leave be given to bring in a bill according to the notice which I gave yesterday, and that it be referred to a select committee.

A bill "concerning Martha Randolph, the daughter and only surviving child of Thomas Jefferson, deceased," was then presented by Mr. POINDESTER to the Chair, read a first and second time, and referred to a select committee, consisting of Mr. POINDESTER, Mr. BEE, Mr. WEBSTER, Mr. TYLER, and Mr. HAYNE.

#### POST OFFICE DEPARTMENT.

The Senate again took up the resolution concerning the examination of witnesses as to the causes of their removal from office.

Mr. CLAYTON concluded his speech against the resolution.

[As reported above in yesterday's debate.]

Mr. BENTON then rose and said, that he did not appear on the floor for the purpose of joining in the debate, nor to express any opinion on the truth of the allegations so violently urged against the Postmaster General. He had no opinion on the matter, and did not wish to have one, except it was that presumptive opinion of innocence which the laws awarded to all who were accused, and which the pure and elevated character of Mr. Barry so eminently claims. If impeached, it might be his duty to sit in judgment upon him—or, if he had an opinion in the case, to retire from the judgment seat; as he could neither reconcile it to the dictates of his conscience, nor the rights of the accused, to take the oath of a judge, with a preconceived opinion in his bosom, to be dropped out as soon as the forms would permit. He rose, he repeated, not to accuse or absolve Mr. Barry, but to express his opinion of the character of the proceeding which was carrying on against him, and to intimate an idea of what might be proper to be done hereafter in regard to it. He then affirmed with deep and evident feeling, that he looked upon the whole proceeding, from its first inception to that moment, as one of eminent impropriety, compromising the judicial purity of the Senate on one hand, and invading the privileges of the House of Representatives on the other. The Senate, under the constitution, tries impeachments—the House of Representatives prefers them. Each has its assigned part to act, and it is an invasion of privilege for either to assume the part of the other. If the tenth part of the matter so furiously urged against Mr. Barry was true, or even founded in probability, he might come before the Senate for trial; and it would be a horrid mockery of judicial forms for his future judges to take the oath in the case of accusation, and to excite, promote, foment, and instigate charges against him. To the House of Representatives belonged that part of the painful business; and the present proceeding in the Senate must appear to them as an invasion of their privilege, and an implied censure upon their negligence. It did seem to him that the House of Representatives might take notice of the proceeding, and feel itself bound to vindicate its rights; and the two Houses thus be brought into serious collision. To avoid these consequences, as well as to escape a compromise of the judicial character of the Senate, he was decidedly of opinion that the debate and proceedings should terminate immediately. This would save the further evils to the Senate itself, which might ensue. As to the past—the proceedings already

had—he declared that he thought them a fit subject for that operation which had been performed upon the record of Wilkes's expulsion from the British House of Commons—upon the record of the Yazoo fraud, in the Legislature of Georgia—and upon the record of the Massachusetts General Assembly, which declared it to be unbecoming the character of a moral and religious people to rejoice in the victories of their country. He declared it to be his deliberate opinion that the history of the whole proceeding against Mr. Barry ought to be expunged from the journals of the Senate! Total expurgation from the journals was the most appropriate means in the power of the Senate to restore its own injured character—to make atonement to the invaded privileges and insulted feelings of the House of Representatives; and what, perhaps, was still more important, to prevent this evil example, this horrid combination of the accusing and trying function, from being drawn into precedent in future times when the party in power, and predominant in the Senate, might want the spoils of a victim. If the American Cato, the venerable MACON, was here, it would be his part to become the guardian of the honor and dignity of the Senate: in his absence, that high duty might devolve, at an appropriate time, upon some aged Senator. If none such undertook it, it might become his part to consider how far their places ought to be supplied by a less worthy and less efficient member.

Mr. WOODBURY then again rose. He regretted, he said, the course pursued by the gentlemen from Maine and Delaware, especially by the latter. It had compelled him again to trespass on the indulgence of the Senate, during the discussion of this resolution, although the subject must have become irksome. But new positions had been assumed—new insinuations uttered—new and extraordinary accusations rung in the ears of this body and of the whole community. Silence under them might be construed into approbation. In repelling them, he disclaimed all that part of the compliment bestowed upon him, in connexion with his friend on the right, [Mr. GRUNDY,] that they were "most dexterous advocates of the Postmaster General." He, as an individual, was in this body the advocate of nobody. He acted in his station as a Senator, and only as a Senator; and whomsoever in a public station, he might be called upon, in the course of official duty, to vindicate or condemn, he should endeavor to do it in a manner becoming that public station, and with a single eye to the public interests. In the discharge of what had devolved on him, as a member of the special Post Office Committee, in relation to the present debate, he had used, and should hereafter use, no dexterity beyond a dry appeal to our own congressional documents, and to such mathematical computations on their contents as every gentleman could disprove or verify for himself.

Poetry had never before, but once, he believed, been brought in aid of an examination into any of our fiscal concerns; and though that was done by the head of a department, he should beg leave to decline following both that example and the example of the two gentlemen opposed to this resolution, in preferring figures of rhetoric to figures of arithmetic. Nor should he willingly follow the last speaker in making political prophecies, whether as to men or measures. He felt much veneration for religious prophecies; but as for political ones, when uttered by politicians, who had made arrangements to bring about the events foretold, and were endeavoring, he hoped in vain, to verify their own predictions, he cherished not sufficient respect for such prophecies as to imitate such an example. The grave character of this body demanded of us to consider that we were in fact examining the conduct of one of the most elevated officers of the Government; an officer who, from his public station as well as his high personal character, was entitled to at least ordinary comity, and an adherence, on our part, to a fair, manly, and liberal course of investigation. We were carrying a scrutiny into the

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receipts and expenditures of nearly two millions annually; and we should do it, he trusted, on the same just principles, and the same settled rules of evidence, as governed us in relation to similar subjects in other departments, and in other periods of our history.

How had we got involved in this wide and desultory debate? Assuredly by a marvellous departure from the language and spirit of the resolution itself, on the part of its opponents. The resolution proposes simply to check the inquiries of the special committee into the causes of removals in the Post Office Department. This is a single and a fair proposition for the decision of this body. The committee being divided, an appeal was made to you, as you are the authors of the reference, and have power to construe, amend, or abolish it altogether. In favor of that proposition, the minority of the committee believed that the Senate had pronounced an opinion the last winter, after very full debate, and, therefore, not "carefully avoiding," as the member from Delaware alleges, an argument on the construction which might be given to the words of the reference independent of that opinion; but contending that, after such an opinion, the Senate could not intend to have a construction placed on the reference hostile to their own decision, the minority opposed going into an inquiry of the special causes of removal. They believed, also, that we ought not to embark in that inquiry, because all admit the Postmaster General has both the legal and constitutional right to displace any of his deputies. The right or power being conceded, there is no law nor sense in making him amenable, in the first instance, to the Senate, for any supposed abuse of that power. For such abuse he is responsible only to the other House as the impeaching body, or to the President, who can control or remove him at pleasure; but we, the Senate, can neither impeach nor remove him; and, as a legislative body, have no more right to investigate the particular motives which influenced him in any removal, than we have the motives of a collector of the customs, or a marshal, in the removal of their deputies. The general course of administration in respect to removals, it might be proper to ascertain, as once before remarked, with a view to legislation. So might it be in respect to the fiscal concerns of the department, with the same view; and the latter investigation might be pushed further, into the smallest minutiae, to see if any departure had been made from the acts of Congress about receipts and expenditures; and, if any departure, what remedies might be proper to prevent a recurrence of the mischiefs. But, in relation to particular removals, the law had entrusted the Postmaster General with unlimited discretion and power. Such a discretion could not be violated. There would not be, in any removal, a departure from the law, because there existed no law restricting him; and hence an inquiry into particular cases was unjust, useless, and improper.

So much for the direct merits of the resolution. But mark the ingenuity of our opponents, in getting up the rest of this extraordinary debate! The Senator who has just addressed you, avers, that the moneyed concerns of the Post Office Department are "rapidly verging to insolvency;" that this has been caused by the misconduct of faithless and fraudulent officers recently appointed; and hence, that you ought to permit the committee to ferret out the causes of the removal of their predecessors. To reach his inference, it will be seen that the gentleman has been obliged to resort to "two assumptions of fact, if not of doctrine," in the language of Colonel Lawless. If either of those assumptions fail him, in the proof or investigation, his inference against the check contained in the resolution has no foundation to stand on. Like the Indian philosophy as to the foundation on which the earth stands, he may rest some of his positions on the elephant, and the elephant upon the tortoise; but on what does his tortoise stand, if the department is not, in truth, verging to insol-

veny? Or, if embarrassed, it has not, in truth, become so by neglect and corruption, but by your own system of legislation, largely increasing its expenditures? The gentleman, likewise, has indulged in these two assumptions, at the very moment when the committee were inquiring into the real condition of the funds of the department, and when his questions about removals might have been judiciously postponed, it is believed, till the truth of the assumption, as to insolvency, on which his other questions rest, were fully ascertained. But no; this did not suit the zeal and impatience of the prosecution. It was thought better to guess at the fact of insolvency, or attempt to show, from imperfect and perverted circumstances, than to wait a few days for decisive evidence, one way or the other—evidence, too, within our own reach, and which we were collecting by interrogatories to the department, access to its books, and the unlimited power conferred on us by the Senate to send any where for persons and papers.

The Senate will now understand the occasion, premature and unnecessary in his opinion, for entering this last wide field of accusation; and, considering the excitement accompanying it, they would excuse the trouble he must give them, while meeting the chairman on the different grounds travelled over. To save time, he would avoid, as much as possible, any recapitulation of any thing before offered by himself or the member from Tennessee.

In the first instance, the chairman asserts the department "is rapidly approaching the period of bankruptcy;" and that this has all happened under its present head, from the removal of worthy officers, and the appointment in their stead "of factious, brawling partisans, with no other merit than voting for the present chief magistrate."

Pray let me ask what evidence, beyond his naked assertion, has the gentleman condescended to lay before the Senate in support of these extraordinary positions? Does he point to a particle of testimony collected by the committee, except the deposition which has been read by the Senator from Tennessee about Fowler's bond? and which deposition proves mismanagement, if at all, under the administration of Mr. Meigs rather than of Mr. Barry. So far as the imputed indebtedness of Mr. Barry, as one of Fowler's sureties, bears on the present funds of the department, it is enough to say that, from that deposition, it appears our own courts, after a full hearing, and under a former administration, have rendered judgment in his favor. Although a new action might have been instituted, they never attempted it. It would seem, therefore, uncharitable, unjust, and, indeed, illegal, now to pronounce him a debtor, with our own records, and the conduct of our own public officers, standing unreversed in his favor. But the great reliance in support of the charge of bankruptcy is, that, from our documents, it can be gathered, that the present head of the department has, in his first year, "sunk," as the gentleman calls it, \$114,000; that, of the surplus funds left in bank by his predecessor, he is alleged "to have spent the whole;" that "large sums besides have been drawn from the treasury;" that the balance against him is almost \$100,000; and that, without the interposition of Congress, the operations of the department must soon entirely cease.

Now let me invoke the Senate to a close examination of these alarming assertions and inferences, to ascertain whether there be any thing of fallacy or falsity in any of them; or rather to see if they be not all utterly groundless. If I have any knowledge of the history of that department, and any judgment to understand its administration, it will soon be seen whether it is not now in a financial condition highly prosperous; whether it has not, during the last two years, eminently fulfilled the public expectations and designs in its establishment; and whether its prospects in future, unless blasted by our own legislation, were ever more encouraging or brilliant.

As to its general financial condition at any period, every

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person who reflects a moment must be conscious that it will mainly depend on the course of our own legislation. It is well known that not a dollar can be received or paid but by authority of law; and that while the officers in it conform to the law, the balances, whether for or against the department, depend on ourselves. It differs but very little from the Treasury Department, where the balances for or against the Government depend on our laws making appropriations and raising revenue, and never upon the officers in the department, while they merely fulfil our legislation. But who ever heard of criminating the officers in the last named department, because our own appropriations had caused the expenditures to exceed the revenue? A little further attention to the history of the balances, and the payments into the treasury from the Post Office Department, will show the folly of this mode of reasoning urged against us, merely from the balances, and will demonstrate to the public, that, if such reasoning be correct, the worthy predecessor of the present incumbent, whom none profess to impugn, is much more censurable than the present incumbent himself.

Allow me to read a few passages from official records on this point. Under the administration of Mr. Osgood, the balance in favor of the department, was

	\$15,392
Under Mr. Pickering,	84,594
Habersham,	432,909
Granger,	509,360
Meigs,	499,008
McLean,	152,000

Thus it appears that, under Mr. McLean, the balances "sunk" from about half a million to only \$152,000. But does any one, save the chairman, and he only by the analogy of his argument as to Mr. Barry, contend that this falling off arose from profligacy or fraud in either the then head of the department or his subordinates? Did any body deem it an evidence that the department stood on the brink of bankruptcy? Look again for a moment to the payments into the treasury from the post office.

Under Mr. Osgood,	\$000,000
Pickering,	47,499
Habersham,	368,310
Granger,	291,579
Meigs,	387,209
McLean,	13,466

Thus, under Mr. McLean, the payments diminished from over a third of a million to only \$13,466. Did he squander the difference on parasites and political partisans? Yet the gentleman's course of reasoning as to Mr. Barry on this subject much more deeply brands and defames his predecessor in these respects. No, sir; the explanation lies in the compass of a nut shell, and it is wrong and ungenerous to mislead the public, who may not critically examine our history on this point, into any injurious impressions against either of those faithful officers from these or other balances to which I will soon advert. In the earlier operations of the post office, it was, among other uses, deemed a proper engine to increase the revenues of the country. With a heavy debt, small population, and large annual expenditures, it was not our policy as a Government to establish any mail route which was not likely to yield a nett income; and whenever it was ascertained that any route run the department in debt, it was customary to discontinue it by an act of Congress. In this way the balances were easily increased, till they amounted in all to \$1,693,958. Of this amount there was paid into the treasury, and devoted to the general expenditures of the Government, \$1,103,063.

But since the last war, and the extended improvements and intercourse in every quarter of the country, which commenced a few years after the war, the call increased for new mail routes, and for greater expedition, and more frequent trips on old routes, and for more safe conveyances by covered carriages. To answer this call absorbed

much of the increasing revenue, which otherwise would have swelled the balances and payments into the treasury under Mr. Meigs, and especially under Mr. McLean. Yet, still, late as A. D. 1827, the annual income exceeded the annual expenditure; and, but for a more decisive change of policy and legislation, which occurred the next year, Mr. McLean's balances and payments into the treasury would probably have equalled, though in office a shorter time, those of his immediate predecessors. In his annual report of November, A. D. 1827, he invites the attention of Congress to the subject of the surplus balances, and suggests the expediency of applying them all in aid of the great objects of the post office establishment, rather than paying them as mere revenue for general purposes into the public treasury. Among other objects, he reminds them the surplus might be expended in making or repairing post roads.

What did Congress do on this new suggestion? They at once seemed to adopt the theory, that the department should no longer be treated as a source of general revenue for general objects; but, rejecting the proposal to repair roads, they appear to have thought that all its funds should be expended in extending the advantages of the mail to all parts of the country, as widely, safely, and efficiently as practicable. Instead, therefore, of appropriating them to make or mend highways, and instead of leaving them to be paid into the general treasury, they passed a new law, (May, 1828,) creating over two hundred new routes, and discontinuing only four old ones; and they did this, although only in March, 1827, they had created two hundred other new routes without discontinuing one. To show the difference between this and the former policy, since Mr. McLean entered into the office, no new routes had been established for two years, instead of one year, before those in A. D. 1827; and when the former ones were established, (March, 1825,) some old ones were discontinued, and a general clause enacted to authorize the discontinuance of more if unprofitable. Two years, and not one before that time, (viz. in March, 1823,) ten old ones were discontinued, and only about sixty, instead of two hundred, new ones established.

Revert now a moment to the first effect of this change of policy after the suggestion of November, A. D. 1827. Congress, in the ensuing session, having proceeded at once to pass the act of May, 1828, although only the former year they had passed a very expensive act, and having thus indicated their intention to have the facilities and advantages of the department extended so as to engross all its income, the Postmaster General followed up the spirit as well as letter of this change in policy, and not only put into operation, between July, 1827, and July, 1828, the new and expensive routes in the act of Congress of March, 1827, but expedited and improved the transportation on the old routes many hundred miles; and, coupling both together, caused an increased expenditure for that year of between two and three hundred thousand dollars.

What was the consequence to the annual balances, about which we have heard so much? Mr. McLean forthwith fell in arrear, July, A. D. 1828, \$25,015. But was this any evidence of unfaithfulness? He continued in office till the ensuing March—made the expensive contracts under the new act of May, 1828—put the routes into operation January, 1829—continued to improve the old routes—paid one quarter of the burden of the new ones, being about \$25,000, and left the year to be closed in July, 1829, without any material changes as to expenditures being made by his successor, from April to July. The whole of this year was then virtually Mr. McLean's; and how did its balances stand? The department fell in arrears almost three times as much as in the preceding year, having a balance against it of \$74,714. Was this, however, waste and corruption in Mr. McLean? Yet, forsooth, if the next and only year of Mr. Barry has a balance against the de-

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partment, it is urged as evidence of incapacity, extravagance, and bankruptcy. But let us probe to the quick the next year, which wholly belonged to Mr. Barry. The balance against the department is less than eight thousand dollars above Mr. McLean's last year, being merely eighty-two thousand one hundred and twenty-four dollars. There was only this small excess, although there had been flung upon it the great extra expenditure of three quarters instead of one quarter of the new routes under the act of May, 1828, equal to about \$75,000, and flung upon it besides, in the desire of the Postmaster General to advance the public accommodations, the expediting and improving of old mail routes, to an expense exceeding \$100,000, and to an extent exceeding eight hundred thousand miles beyond any former year. There is no mistake, as the chairman supposed, in computing the cost of these improvements, because part of the stage routes had before been horse routes, and therefore should not be estimated at full thirteen cents per mile. No, sir; the horse routes are still left extensive as before, and sixty-seven thousand one hundred and four miles added; and the new and entire addition of stage conveyance is seven hundred and forty-five thousand seven hundred and sixty-seven miles.

But how would the two years have compared without the burden of the act of 1828? Mr. McLean's deficit would have been about fifty thousand dollars, and Mr. Barry's only about seven thousand dollars. How would they have compared, if you proceed and deduct also the amount voluntarily expended in each year for expediting and improving old routes? By the annual report of November, 1829, it seems you must, on that account, take \$67,383 from Mr. McLean's expenses, which would leave a balance in his favor for that year of about seventeen thousand dollars; while pursuing the same course, and deducting the one hundred thousand dollars thus expended the last year, it would leave a balance in favor of Mr. Barry of ninety-three thousand dollars. Yet gentlemen talk of balances, as confirmation strong of waste, corruption, and incompetency in the present administration of that department.

Turn to another test of its administration. The chairman has to admit that the revenue has increased; but he says he feels no surprise at this, and that the credit of it is due to the increase of correspondence. But has he forgotten the other part of his argument, that the officers of this department are corrupt, negligent, and wasteful? If so, how does it happen they collect the revenue so amply, and account for it to a much larger amount than before? An amount, sir, during the past year, about one hundred and fifty thousand dollars larger than the highest revenue under any former administration. In this city, likewise, an improvement in revenue was still continuing, notwithstanding the inauguration, and other circumstances named by the chairman, are gone by; and the former had, in fact, gone by before the change. It still exceeded, in the last three quarters, by the return in his hand, more than double the revenue before 1829. To show what fidelity exists in the expenditure of the increased revenue here, and in the department at large, let it be remembered that we do not present to the Senate only the old items of expense, and the rest squandered or unaccounted for, but we present from documents, besides all the old payments, the sum of seventy-five thousand dollars advanced on new routes, and one hundred thousand dollars more advanced on improvements in old routes.

So much for the past. If we look forward to the close of the present year, what are the inferences justly to be drawn from what we already know from the printed documents before me? A large class of contracts has been renewed, and at an annual saving, on the face of them, of twenty-five thousand dollars. In addition to that, improvements have been contracted for, and put into operation, costing forty-five thousand dollars more, and are in-

cluded in the same contracts, without diminishing the nominal gain of the twenty-five thousand dollars. The department will also be relieved from all the expense connected with the commencement of the new routes under the act of 1828; and thus we have decisive data from which to infer, that it is neither verging to bankruptcy, nor needing the aid of Congress to rescue it from ruin. So far from that, it never, as a department, accomplished so much. It never had the annual ability to accomplish so much; and, unless we ourselves break it down by the imposition of new and aggravated burdens, its prosperity and its balances bid fair to be every thing its warmest friends may desire. These are not only my own deliberate opinions, from a careful examination of official records, but they are fortified by the views given us in the last annual report from that department, and by the matured opinions of a committee of the other House the last session, after a full and able investigation.

A word or two as to the state of the department, even if a further annual balance against it should accrue the present year. Has it, as is intimated, no means of payment without invoking us? Has it wasted all the surplus left under its administration for forty years? The Senate will recollect, that the surplus of balances exceeded the payments into the treasury during that period, something like five hundred and forty-one thousand dollars. The bad debts and losses, during the forty years, reduced that amount to what Mr. McLean, in July, 1828, considered available funds, that is, to three hundred and thirty-two thousand one hundred and five dollars. This last sum has been further reduced by the old causes, by corrections of errors, and by the new annual balances against the department, to about one hundred and forty thousand dollars. But there still remains one hundred and forty thousand dollars under the control of the department, to meet any future annual deficiency; and so far from being insolvent, or from imploring us for relief, it is manifestly in a safe condition, and implores only our forbearance to throw upon it too great additional burdens. The whole basis, then, of the chairman's argument vanishes. There is no foundation for his inference that the insolvency of the department has been caused by the removal of faithful officers. The insolvency exists only in his imagination.

But, for mere argument's sake, suppose the operations of the department were embarrassed, and its means deficient, is there a particle of proof that this has been caused by misconduct in its present officers? Did not the change of policy, which led to its present condition, commence under Mr. McLean? and were not its consequences developed during the whole two last years of his administration? and did not the change happen by our legislation, and in the fulfilment of our own policy? And is Mr. Barry to be censured for it any more than his predecessor? We, ourselves, wisely resolved that the current revenue, and the surplus funds, should all be expended in new routes and improvements. We, ourselves, created, within fourteen months, the unprecedented number of over four hundred new routes, costing over two hundred thousand dollars; and, in furtherance of the same new policy, the public called for the improvement of old routes, to the extent of some millions of miles. We have been promptly seconded in our policy by both the past and present Postmasters General, so that the number of post offices since 1825 are nearly doubled, and the distance of transportation is increased over three millions of miles. The Senate are hardly able to comprehend the extent of the improvements in that department, without some analysis and illustration. In twenty years, from a revenue of about half a million, it has swollen to almost two millions; from only about two thousand post offices, they have multiplied to over eight thousand; and from an annual transportation of the mail of about five millions of miles, it has reached fourteen and a half millions. This now averages a daily trans-

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portation, incredible as it may seem, equal to nearly twice the circumference of the earth. Yet a department, so prosperously administered, and so largely contributing to those beneficial results within the last year, as well as in the two preceding years, it is now the policy of the opposition to misrepresent, vilify, and attempt to put down, by the "starling," or rather the parrot and cuckoo cry of proscription! proscription! Thus successful and efficient, it is to be denounced as unfaithfully administered; and this groundless accusation is wantonly to be imputed to the appointment "of brawling sycophants, with no other merit than a support of the present Chief Magistrate." Fearing, doubtless, that he might be driven from this position, by the want of evidence to support the assumption on which his strongest inferences rested, the chairman next resorted to a series of strictures on particular acts of the Postmaster General—to strictures on a majority of the special committee—to strictures on the Senate—and, finally, capping the climax of reproach, to strictures on the people of Maine and New Hampshire, who have approved of removals.

The task of following the gentleman in this species of debate, is by no means agreeable, either in reference to the topics themselves, to my own taste and habits in public speaking, or to the personal collision it may seem to produce between us.

But, with my present strong convictions of the injustice which has been done to the head of this department, and to a portion of my constituents, by these strictures, it would be dishonorable not to repel them. Hence I do not choose to leave them unnoticed, as otherwise they might be, provided they were all true; because they possess no bearing on the propriety or impropriety of passing the resolution under consideration. Let us look at these, then, in their order, apart from their utter irrelevancy to the question. Not a particle of evidence, has been cited to justify the strictures on Mr. Barry, but the single affidavit before mentioned, about the Fowler case. That affidavit has been fully scrutinized and explained by the Senator from Tennessee; and, I will only add, it shows Mr. B. honorably discharged in one trial about his indebtedness, and so strong a conviction in the past administration of the correctness of that discharge, as to have prevented them from any new attempts to render him liable. Next, we have against Mr. Barry the famous letter introduced and read with so much formality, though it is no part of the evidence before the committee, but has been entirely ruled out. If the examination of the author of it, on other points in the letter, turns out like his examination about Fowler's case, nobody but the writer will have much to fear from its contents. Mere letters, it is true, have their value; but, coming from an avowed opponent, and after a proposition for a confidential compromise, are not, it is presumed, in this experienced body, to be deemed evidence against even the humblest citizen in the smallest accusation. But what are the other charges contained in the letter, as it has been read and relied on? That Mr. Barry was probably incompetent to write a mere official circular, and hence resorted to a clerk. This, too, is advanced against a gentleman of acknowledged natural talents, of finished education, and of distinguished professional attainments. The very statement alone stamps upon the charge reprobation and extreme folly. What next? That the printing of advertisements in this city, from his department, had been needlessly expensive; when I now hold in my hand an official call, and an official answer to it, on this very point, at the last session, by which it appears that the printing for A. D. 1829, of the above character, was from three to four thousand dollars less expensive than it had been in either of the two preceding years. Extravagance in repairs and furniture: when, in the same document, all can read a full and satisfactory explanation on that point. That he has paid money in advance to a political partisan: when, from the same document, it appears that the draft for the money

was drawn and accepted under his predecessor, and was not paid, when it fell due, by Mr. Barry, until taken in discharge of new services. That mismanagement existed in making a contract to carry the mail to New Orleans: when the same document clearly explains the groundless character of this imputation; and when experience under that contract has shown a regularity and improvement on that great commercial route, which is invaluable to the community, and which will soon augment the revenue in that quarter more than enough to meet all the increased expense. Next, a new arrangement of duties to the clerks, and unnecessary expenses in extra clerk hire: when, on the very next page of this printed document, all can read and see that the new division of duties introduced promises, like that of labor in manufactures, to make the discharge of them more perfect, and to cause a greater amount to be performed by the whole.

In relation to the expenses of clerk hire, which has figured on other occasions, as well as in this letter, I will give the Senate fuller and satisfactory explanation in a few moments. But, from these examinations and answers of the accusations in this celebrated letter, is not the questionable character of the whole manifest? And is it not demonstrable that the letter itself has been in other hands before this winter, and all its contents then deemed worthy of notice made the foundation of calls on the department? And have not those calls all been promptly met a year ago? Any gentleman who has the curiosity to compare the whole together, will find the document in No. 136, the 21st Congress, 1st session.

But one step further. Not satisfied with causing the whole letter to be read in the Senate, after the answers returned last winter on every point then deemed material, the chairman himself enters the field of denunciation against the Postmaster General. On his own personal knowledge, he accuses him, not, to be sure, of the high misdemeanor of wasting the public funds, or making groundless and corrupt removals, but of an unpardonable incivility, or of a heinous neglect to acknowledge the receipt of his communications forthwith. Next, he is condemned for delaying, without cause, a reply to the resolution of the gentleman from Ohio, and a reply to the first nine interrogatories of the chairman. In no very measured language, he is arraigned, also, as fearing an investigation, as thwarting legitimate inquiry; and is told that he "dare" not do this, and he "dare" not do that, from a dread of consequences. It is added that the complaints made by the chairman on last Saturday forced or compelled the Postmaster General to send in his answer to the first call. This is modestly said, although one would charitably think the probability is, the answer, amounting to five or six thousand pages, had been preparing for more than six months, and, having for a week or two been understood to be nearly completed, was sent in whenever finished, and because it was finished. Possibly, too, when in a few days the answer comes to the nine interrogatories, which has also been preparing about two months, and after the call was "immediately commenced," as the letter to the chairman shows, we shall again be told that that answer likewise has been forced in, by the fulminations cast again upon the Postmaster General to-day, for his delays and evasions. Pardon me, sir, if I remind the member from Delaware that these extraordinary attacks are made upon an honorable man, during his absence, and in a place where he cannot be present to meet them in person, and vindicate his conduct. Pardon me, sir, if I remind him that this high officer of the Government is no less pure in character, or elevated in feeling, than the loftiest of his accusers; that, so far from timidly shunning inquiry in proper cases—so far from being dragooned by threats, to acts of shuffling and intimidation, he invites all due investigation; he discharges his trusts from principle, and not fear; and will be found, at all times, and by all per-



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sons, to "dare do all that doth become a man." Does the gentleman, after reflection, seriously believe that the Postmaster General, if present, would not have been quite as much amused as offended with the supposed effect of certain menaces in expediting his movements? Would the Postmaster General not have smiled at that bold assumption, as a little too much in "the Hercules vein?" And might he not possibly have been tempted to repeat, in reply, the anecdote of the mechanic, who was employed to manufacture thunder for a storm, in a play, to be performed on a certain stage? The storm being over, and the thunder having been good enough of its kind, it happened, in all the subsequent parts of the play, when any fine sentiment or fine acting produced applause, the manufacturer of thunder could not avoid exclaiming to those near him, "See the effect of my thunder!"

But how stands the naked facts about the seasonableness of the answers, and about the accusation concerning unnecessary expenses for clerk hire? Not only has the current business of the office been performed during the last nine months, but the answer has been made to the call of the member from Ohio, filling, I believe, more than a ream of paper; and the answer far advanced to the call of this committee. The last, a call not trifling in its nature, and requiring little of either labor or examination, as intimated by the chairman, but one resolution alone of the nine, requiring every item of incidental expense to be stated for each year, in the department, since 1826. Another, requiring every allowance on contract to be detailed, during this administration, when the allowances probably amount to many hundreds. But thus much has been accomplished, sir, under circumstances when the current business of the department is constantly and largely increasing; and when in our official documents we are informed it has augmented full one-third, within only four years, by the increase of routes, trips, and offices. Did not Mr. McLean understand this subject as well as Mr. Bradley, as the chairman, or any of us? And yet he, with an increase of clerks from only seven in the year 1800, to thirty-eight in 1828, was obliged to appeal to the Committee of Ways and Means for a still further addition of clerks, and observed, "the business increases as rapidly as the operations of the mail are extended, and the public interest requires that the force of the office should be augmented." Whereupon Congress made provision for five additional clerks in May, 1828. Yet, in 1829, not one year afterwards, what said Mr. McLean again as to the pressure of business, and the necessity of still employing extra clerks? Not what the immaculate letter writer brings as a charge against Mr. Barry, that "he has employed extra clerks and agents, when the business of the office was as well and promptly done before, and when it did not require others." But Mr. McLean stated frankly and officially, "that during the last year, (1828,) he had expended for clerk hire, beyond the amount appropriated, \$3,653 11, for which an appropriation was not asked at the last session. It was deemed better to defer any application on this subject until the ensuing session of Congress, when the increasing business of the office will require a more permanent provision by authorizing an additional number of clerks. The increase of business is such in this department, that any number of clerks sufficient at this time, will not be able to perform the labor six months hence."

Who could have expected, after all this, all this too printed and published in our public documents, and accessible to every one, that the letter should be read here, impugning Mr. Barry for the employment of extra clerks in 1829? And that in 1831, after three times "six months" had elapsed, and a number of laborious calls had been made for information, Mr. Barry should be here severely arraigned and censured for not having been able to give to those calls an immediate answer?

But in the chairman's sweeping invective, his own committee, or at least three members of it, came in for a share of accusation. He says, it is true that he will not impute to them corrupt motives; yet he will state facts, showing "the suppression of inquiry," and other grievous misdoings, and leave the Senate to decide on the motives. For one of the three, I return him all the thanks which this kind of courtesy merits; and must add, that in the member from Indiana, though often acting with the chairman and opposed to myself and the member from Tennessee, in some material points, I have witnessed nothing but perfect fairness of mind, and in no instance any uncharitableness towards his brethren.

The gentleman from Maine likewise, though differing *toto cælo* from us in opinion, has expressed no illiberality; and the remarks of even the chairman himself, I am willing to attribute chiefly to great zeal and ardor in his own views, and to less experience in having those views criticised or overruled, than has fallen to the lot of his colleague on the committee near him, [Mr. HOLMES,] in a longer course of public life.

But to return to the accusations. It is said part of the committee has attempted to break down and discredit Mr. Bradley from fear of his potent letter; as if that letter was so new and astounding; as if it had now fallen upon us like an avalanche, and had not been fully answered a year ago by an official call; and as if any body had done so much to break Mr. Bradley down as he himself had. It is he, who has voluntarily made his letter public property. In relation, however, to Mr. Bradley's character, I shall forbear to make a single stricture—and have adverted only to admitted facts, until his testimony, after the close of our investigations as a committee, may come under the consideration of the Senate. In the next place we are charged with evading inquiries, by addressing them, in the first instance, to the head of the department rather than to some of his subordinates; as if this course was not most decorous, and was not likely to ensure at the same time the most prompt and full reply. The censure would rather have been due, had we pursued a different course. When the replies come, should they not be satisfactory, the chairman has been repeatedly assured that any further application to other quarters for proper information would never be refused.

Again: we did not, upon the receipt of Mr. Gholson's letter concerning partiality in a mail contract in Virginia, send at once thither for persons and papers. This is called "refusing inquiry." Now mark the real transaction. Being informed the same subject matter had been under investigation in the department on an old complaint from the same quarter, we merely directed, that, before sending to Virginia, the correspondence and evidence on file should be asked for by a sub-committee, of which the chairman was a member.

Was not this judicious, in order to shape our inquiries properly in Virginia, and to ascertain whether foundation enough probably existed in favor of the charge, to render the expense and trouble of sending to Virginia justifiable? The chairman having neglected to obtain that correspondence and evidence, and the inquiry having thus and thus alone been delayed, I have obtained them for my own satisfaction as a member of the committee; and if any gentleman wishes to peruse the papers, he can see how proper it was they should be examined before incurring the costs and inconvenience of a mission to a distance.

Again: it is cast on us as a reproach, that we refused to allow witnesses to be examined when before us. Yes, because we objected to administer an oath just so long as was necessary to inquire whether the examination related to points within the subject matters referred to us, and not a moment longer, this general and grave accusation is rung in our ears. Once for all, behold an illustration of the temper in which the investigation is conducted. Are

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we to be told as lawyers, or as law agents, that any court or committee of limited powers should make investigations or take testimony on subjects not within their jurisdiction? Yet a preliminary inquiry on that point, as well as our other proper precautions, are imputed to us as attempts to stifle the truth, and exclude light.

It is confidently believed that no unjaundiced eye can discover any circumstance in them beyond due courtesy to the head of a high department, a due regard to economy in the exercise of our power to send for persons and papers, and a commendable dislike to encroach upon the limitations which the Senate, by a fair construction, seem to have imposed on the inquiries referred to our examination.

But enough of this. A similar accusation is hurled even against the Senate for referring the answer to the call of the member from Ohio to the standing committee, rather than to the special committee, on the post office. It was done, says he, to create delay in our inquiries, and to smother investigation; when the chairman should know, for it was assigned as a reason at the time, that the reference was thus made to enable the gentleman, friendly to the chairman, and on whose resolution the call was ordered, first to examine the answer. That gentleman was on the standing, but not on the special committee, and now, as propriety dictates, has the papers in his individual care, willing, without doubt, that any member may refer to them in elucidation of our researches.

But I have done with these details, tiresome, I fear, to the Senate, and exceedingly unpleasant to me. From the specimens given, the flimsy character of the whole charge is manifest. Yet a duty to the public as well as myself, a duty of a character neither to be sought nor shunned, has been discharged in the discussion of them: and I shall here close—after a few comments on the charge of bribery flung by the chairman on such part of the people of Maine and New Hampshire as have approved the removals made in those States in the Post Office Department. [Mr. CLAYTON here rose, and observed, he did not mean to make any charge against the people of New Hampshire; and only said as to those in Maine, that, in returning their verdict for the administration, the verdict was entitled to no more weight than that of a jury, who had been bribed or embraced.] I accept the gentleman's explanation to a certain extent. But though my immediate constituents may now be considered as not directly implicated, yet an indirect implication is still left upon their principles, and a most derogatory stricture made upon some of their brethren of a sister State, which I may be pardoned for noticing. That gentleman knows full well that the receivers of a bribe are as guilty as the givers, and that this accusation, however softened down, or construed into a mere comparative and political charge in the warmth of debate, is not one entirely to be overlooked. Since the explanation, I have no right to doubt the charge was intended only in a comparative and political sense; and in that sense alone, with no unkind spirit would I rejoin, that though the accused may not feel under the highest obligations to him for his compliment to their intelligence and virtue, yet I should do them wrong to say, I believed them alike indifferent to his censure or his praise. On the contrary, there is a class of politicians in this country, whose praise on political subjects they would generally think much more to be deprecated than their severest censure.

FRIDAY, FEBRUARY 11.

## DUTY ON ALUM SALT.

Mr. BENTON, pursuant to his notice of yesterday, asked for leave to introduce his bill for the gradual abolition of the duty on alum salt. He asked for the yeas and nays on his motion.

Mr. FOOT intended to have given a silent vote against the introduction of the bill; but the gentleman's insisting on having the yeas and nays on the question, brought to his recollection that a bill of similar import was before the Senate. Although the Chair had reversed his decision on the subject, he still considered that the question of order was involved in it, and that it should be decided by the Senate, for a close observance of their rules was an actual saving of time. He would ask if the economy of their time would not be entirely forgotten, if every Senator might introduce bills of the same nature of others previously brought in, by a mere change of a partial description, but where the principle was the same? If this were tolerated, their whole time might be consumed by their consideration, although they might afterwards be rejected.

Mr. DICKERSON was opposed to the introduction of the bill, because he considered it one of too much importance to be brought in at this period of the session, for there could not be sufficient time for its consideration. He was also opposed to the granting of leave, inasmuch as he considered it a bill which interfered with the revenue, by providing for the charge of a tax of so much for a given time; and to the Senate did not belong the right of originating bills which went to levy or continue an impost in which the revenue of the country was concerned. It was also a bill which only related to a particular description of salt, and the bill introduced by the Senator from Maryland [Mr. SUMNER] embraced salt in general.

Mr. BENTON said, that as to the question that it originated a measure connected with the revenue, he would simply ask, had or had not the bill already before the House the very same tendency? The question of order he would submit to the Chair.

The Chair could not change the decision already given, but proceeded to take the sense of the Senate on the granting of leave.

A division was then had, when leave to introduce the bill was refused—the yeas being 17, the nays 27.

## POST OFFICE DEPARTMENT.

The Senate resumed the consideration of Mr. GRUNDY'S resolution.

Mr. WOODBURY concluded the remarks he commenced yesterday in support of the resolution. [What he said on both days is embodied unbroken above. After he concluded—]

Mr. SPRAGUE followed. He declined entering into any discussion on its fiscal concerns, but stated his objections to the resolution, as tending to impeach the veracity of individuals who had been dismissed from office in the capacity of witnesses before the special committee.

Mr. GRUNDY explained, and said, that this nothing was further from his intention, and he had no objection so to modify his resolution, as to do away with any erroneous impression in that respect which might be formed.

Mr. LIVINGSTON said—I gave my vote for the resolution under which this committee was appointed, but most certainly not with the intent of vesting them with the power which their chairman contends they have a right to exercise. What is that power? One, sir, that the Senate has solemnly declared, after the fullest investigation, that the Senate itself had no right to exercise; a debate in which the honorable chairman of this committee strove with his usual earnestness, with unusual eloquence and ingenuity, but strove in vain, to establish a right in the Senate to call on the President to give his reasons for such removals from office as the Senate might deem improper. Sir, the honorable chairman needed not to have assured us that he was tenacious of his purpose when he thought that purpose right; the perseverance with which he clings to the doctrines which he on that occasion so ably advocated, is a proof of this. Now, sir, how does

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the interrogatory proposed to be put by the committee, and the argument by which that right is attempted to be sustained; how do these differ from the inquiry then urged to be proper, and the arguments which were then used, but which failed to convince us? The Postmaster General is an officer appointed in virtue of a law which prescribes his duties and designates his powers. His great duty is to secure the transmission of the mail, and the security of the revenue to be derived from that source. The essential power given to him for the performance of these duties, is the appointment of his deputies, and, as a necessary consequence, their removal, whenever they do not, in his opinion, properly perform their duties; they are answerable to him in the same manner as he is to the President—as the President may remove him in the exercise of his legal discretion, so may he remove the deputies whom he has, on his own responsibility, appointed. All the arguments used against the interference of the Senate with the removals by the President, apply with the same force to any intermeddling here. I will not fatigue the Senate by repeating those arguments; they were deemed conclusive then. Circumstances have not changed; nor have the members of the Senate changed. Whether any arguments now addressed to them by the chairman of the committee can have operated any change in their opinion, I should be very much inclined to doubt, because I have heard none now that I cannot recollect perfectly to have heard on a former occasion. Sir, they are old acquaintances, and though they, like old friends, sometimes put on new faces, and trick themselves out in the new dresses that they borrow from eloquence and talent, yet it requires no great stretch of memory to recollect them. I will simply ask the honorable chairman what practical good he expects will result from the inquiry? Let us suppose it proper, and pursue its course; a discarded officer of the department is called before the committee: “Sir, you were a deputy of the Postmaster General; for what cause did he dismiss you?” “Sir, it is impossible for me to tell; I was a most meritorious officer, regular in rendering my accounts, punctual in my payments, diligent in the duties of my office.” “Call in the Postmaster General: Why did you dismiss this man?” “Because he was totally unfit for his office; he never attended to its duties; his mails were rarely made up in time; and the mail-carriers were detained for hours at his office.” “Can you bring proof of these charges?” “Easily; you have only to send for the mail-carrier between Memphis and New Orleans, and for eight or ten of the inhabitants of the village where he lives; the distance is not much above two thousand miles, and you may have them here certainly in a year.” The report must be made in three weeks. Here is one case, and a probable one: How many such in the five hundred cases of removal? Take another: “Why, Mr. Postmaster General, did you dismiss A. B.?” “Because, sir, I had no confidence in him; a discretionary power was given to me, which I have exercised in all cases according to the best of my judgment.” Then I think that inquiry must end. But suppose, in another case, the suspicions which have been expressed, or rather the positive charge, that has been repeated till the echoes are tired with it, that the removal should have been of a person hostile to the election of the present Chief Magistrate, and that another, of opposite politics, should have replaced him; suppose this to have happened in three hundred out of the five hundred removals, what is to be the result? Why, the honorable chairman has long since anticipated it. Such conduct is corruption, and corruption is an impeachable offence. To this result, then, we come at last. A committee of the Senate, members of the high court for the trial of impeachments, are to be employed in finding materials for the accusation of an officer whom they, in the performance of their high functions, are to try; but this seems to offer no serious

objection to the two members of the committee who have argued against the resolution; they think, and no doubt conscientiously, that it is part of the duty delegated to them, to inquire and pronounce upon this branch of the accusation against the Postmaster General. Nay, sir, they have gone further; they have entertained, and think it their duty to pronounce on accusations of fraud, malversation, and corruption. I did not understand them to say that these charges were true; but I did distinctly understand them to say that they were made, and that the committee were inquiring into their truth; and, unless I am greatly deceived, it was added, that they were supported by high evidence. Further, sir, the written allegation of some of these charges was laid before us; was read at the request of the chairman, in the shape of a letter from one of the officers who had been dismissed. Now, sir, against all this proceeding I deem it a duty solemnly to enter my protest. Every member of this body must pursue that conduct which is dictated by his own sense of propriety and duty. I have no doubt that the honorable members who differ from me on this occasion, are so guided. Far be it from me to inculpate them. But I too must follow mine; and my sense of imperious duty urges me not only to dissent from this doctrine, but to point out the consequences of what I deem a most dangerous assumption of unconstitutional power. Do we not entirely disregard the allotment made to us in the distribution of the powers of Government? Do we not encroach on those of a co-ordinate branch? and, by assuming powers not delegated to us, render ourselves incompetent to the performance of those that are? We appoint a committee for the purpose no doubt of inquiring whether any legislative measure is necessary to give greater effect to the Department of the Post Office. To give it any other construction would be to suppose it an unconstitutional measure. This committee asks for power to send for persons and papers. With confidence in the correctness of their course, we give it to them. And, under this delegation, it is contended they not only have a right to do that which the body, of which they form a part, has solemnly resolved it has no right to do; but, sir, that it is their duty to inquire into charges of fraud and corruption in the exercise of his official duties, by an officer upon whom, if he should be accused, we are afterwards to sit in judgment. Not only is this inquiry pursued in the committee; not only are its members forced to prejudice the case, but the charge is uttered in the assembled Senate; all of us are to have our judgments warped and poisoned by hearing evidence and arguments to show the guilt or to prove the innocence of the accused. And then, with our passions inflamed with the warmth of debate, with minds perverted by *ex parte* evidence, and the mixture of political feeling that has been introduced into the case, we are to take our places beside you, sir, in the august tribunal where we had so lately sat, and we are to call God to witness that we will decide coolly, and dispassionately, and justly, between our country and the officer accused. How, sir, are we preparing ourselves for this duty? By violent philippics against the man who, if the opinion of those who utter them is well founded, must appear at our bar to answer them! by arguments which those who believe in his innocence feel bound to use in his defence! by the excitement which zeal and eloquence must naturally produce in the minds of their fellow-judges, to whom they are addressed. In our zeal for political reform, or for the advancement of justice, we forget what we are. We assume the accusing, when we have only the higher, the judging power. If one “twentieth part the tithe” of the accusations that have been uttered on this occasion against this gentleman be well founded, he ought to be impeached; those who believe them to be true ought immediately to produce the charges before the accusing

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power, not to reiterate them within these walls, where no voice ought to be heard in cases of alleged criminality but that of calm deliberation.

Sir, whether the charges are true or false, I will not inquire, until they are constitutionally made and legally proved. Until then I am bound to believe him innocent, not only by duty, but because I believe him, as far as my observation has gone, to be an upright, able officer, and that, under his administration, the department has greatly extended its usefulness. But, although this opinion may make me require and scrutinize proof before I condemn, it will never, if I can confide in my own judgment, swerve me from duty, if that proof should, contrary to my belief, be produced. Nor, on the other hand, can the misplaced invectives, the violent, acrimonious, and repeated charges that have been made, bias me against the man whom I esteem. The honorable chairman of the committee may, as he says he will, "teach his starling to cry proscscription" until all the prating party parrots of the country can repeat it. He may, as he says he will, find his victim "when he lies asleep, and in his ear may halloo proscscription!" He may make the Senate resound with this catchword of a party until he is hoarse with the repetition. Yet, sir, I trust the members of that august body will be calm; they will not suffer themselves to condemn or acquit but in the performance of their constitutional functions, nor suffer any delegated power to transcend those limits which they have determined to be the boundary of their powers.

Before I conclude, let me ask the honorable Senator from Delaware, whether he thinks his favorite word might not be with some propriety applied to the hearing *ex parte* accusations of fraud, corruption, and other misdemeanors against a high officer, repeating them in the highest council of the nation, and speeding them on the wings of his eloquence through the land, before the accused has even answered to the charge. The good feelings which I know that Senator to possess, will, unless I greatly mistake, in his moments of calm reflection, lead him to regret the course which an honest but mistaken zeal has led him to pursue on this occasion.

The observations, sir, of the Senator from Maine [Mr. SPRAGUE] are correct. The resolution offered by the Senator from Tennessee does not go far enough. I offer the following amendment: Strike out from the word "to," and insert—"make inquiry into the reasons which have induced the Postmaster General to make any removals of his deputies;" so as to read—

*Resolved*, That the select committee appointed on the fifteenth day of December last to inquire into the condition of the Post Office Department, are not authorized to make inquiry into the reasons which have induced the Postmaster General to make any removals of his deputies.

Mr. GRUNDY accepted the modification offered by Mr. LIVINGSTON.

Mr. HOLMES then again rose. Sir, said he, the Senator from Missouri [Mr. BENTON] stepped out of his way to catechise the Senate for instituting this inquiry. It appears, by a speech of his published this morning, that the proceedings on this subject are so unparliamentary, that they ought to be expunged from the journal; and, on another occasion, his remark was, that we were acting as petty constables to ferret out offences which we may be called on as judges to decide. Should the Senate obsequiously obey the mandate of that Senator, and apply the sponge to the whole procedure, it becomes necessary for me to proceed in the debate, and to preserve my own record of what I shall have done and said.

Sir, I have before shown, to say nothing of "petty constables," that, from our complex character, our legislative and executive duties may conflict with our judicial functions; but, that this may be the result, is no reason why we should perform no duty at all. As a further illustra-

tion—suppose the bill to regulate the mileage of members of Congress to be under consideration, would we be restricted from inquiring what reason there was to pass the act? Suppose members had charged double, or nearly double their distance, and received their pay, which, if not ground of impeachment, would be certainly good cause for expulsion—could we not inquire into the fact, as evidence of the necessity of a remedy? Now, expulsion is a judicial act; and will any one pretend that here legislative functions must be suspended, lest they should conflict with the judicial?

Suppose, further, that a member should institute a prosecution against an officer, either personally or professionally, and thus disqualify himself from sitting as a judge, all the evil that would result would be, that he would be excused from taking the oath. If this objection had not originated in the Senate of the United States, I do not hesitate to say that I should pronounce it a miserable subterfuge.

But the "dignity" of the Senate is thought to be in danger by this inquiry. Sir, if every member respects himself, acting neither the tyrant on the one hand, nor the sycophant on the other, but proceeding right on, and fearlessly performing his duty, the "dignity" of the Senate will be in no danger. And, sir, if we should retrench upon the rights of the House of Representatives, I trust that there is sufficient independence, and patriotism, and intelligence there, to sustain and defend their own rights and privileges.

Mr. President, the chairman of the committee [Mr. CLAYTON] was called to order by the Senator from Missouri, [Mr. BENTON,] for disclosing what had occurred in committee, after he had patiently endured the disclosures of two other members, [Messrs. GRUNDY and WOODBURY.] The decision of the Chair was against the call; he made an appeal, but withdrew it. If the Senate approves this interruption of such a Senator as the chairman, who never violates the most rigid rules of decorum, I can only say that such approbation bears melancholy testimony of a deterioration of the dignity of this Senate.

It is again urged upon us that our dignity will be compromised, because the Postmaster General may refuse the call. How? Does the Senator from Tennessee [Mr. GRUNDY] anticipate that the Postmaster General will refuse to answer a call of this Senate? A Postmaster General—a green attaché of a "cabinet"—a thing not known to the constitution—refuse to answer an interrogatory of this Senate! Is this the degradation which that Senator predicts? And what then? It would seem to me, with all due deference, that the probability that the Postmaster General would not answer the inquiry put to him, would be the best reason in the world why we should inquire elsewhere. Can that Senator be serious that, because the Postmaster General was not obliged to answer the queries put to him, we ought not to inquire of any one else! I am really lost and confounded; I cannot for my life see, if the Postmaster General is not obliged to answer the queries put to him, why it follows, that the same or similar queries may not be put to the witness. There may be great weight in this argument of that Senator; but, humiliating as it may be, I am free to acknowledge that it transcends the limits of my understanding. The Senator from New Hampshire [Mr. WOODBURY] disposes of the point differently; he takes what he calls the "broad principle," that the conduct of this officer is subject to the inspection and scrutiny of the President alone. This "broad principle" is strictly military. Each executive officer is answerable to his superior, and to no other power. So long, therefore, as the President approves the acts and deeds of the Postmaster General, no other constitutional power can reach him. This is, indeed, a broad principle—broad enough for the basis of the most relentless tyranny which ever scourged mankind.

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But, since we have so lately tried a judge, impeachment is all the while running in our heads. The Senator from Tennessee, the Senator from New Hampshire, and even the Senator from Missouri, seem excessively delicate lest this examination of a witness into the causes of removal from office might at the same time disqualify us to try some one for some high misdemeanor, on an impeachment. And this urged, over and over again, with a gravity that provokes a smile. We have asked them, and we repeat the question, why then are not the other inquiries directed by the resolution equally objectionable? This question remains unanswered. Do the friends of the Postmaster General believe that in this particular branch of the inquiry there is to be found impeachable matter, and therefore we ought to arrest it? Have any members of the committee had the confidence of the Postmaster General so far as to learn that it is best to say nothing on the subject? If so, they, according to their own course of reasoning, are already disqualified to try him on an impeachment. But it does, however, sir, appear to me, that this is "straining at a gnat and swallowing a camel." Both the Senators from Tennessee and New Hampshire have argued the Postmaster General's case with all the zeal and energy of advocates for their client. At the very threshold of the inquiry, they not only pronounce him innocent of every charge, but endeavor to demonstrate his innocence to the Senate. And even the "candid" Senator from Indiana, [Mr. HENRICKS,] while he is willing to proceed in the inquiry, does it with a strong conviction that every thing will be found correct. Here, then, is the ludicrous predicament into which the Senators have placed themselves; they dare not inquire, lest they should become disqualified to try the Postmaster General on an impeachment; that is, the mere inquiry would disqualify them. Yet, nevertheless, they can, without any danger at all, argue the cause of the officer who is the object of inquiry, with impassioned zeal, and even attempt to impeach the reputation of a witness under examination. There is in this neither fiction nor poetry—these are the words of truth and soberness. Here is a glass that reflects their own faces; and one would suppose that they would startle at their own distorted features.

The Senator from Tennessee, in this preliminary stage of the inquiry, avers that an unpaid bond for ten thousand dollars was given up to the sureties by Mr. Meigs, and the whole sum was lost to the Government. But no such losses have occurred under this administration. Now, sir, the facts, as far as disclosed, are these: Fowler, the postmaster at Lexington, Kentucky, had failed to make his remittances; doubts were entertained of his solvency, and new bonds were required. These bonds were procured, and the present Postmaster General was surety, jointly and severally, with the others. After these new sureties, Fowler paid in enough to discharge the first bond. The account with Fowler was kept on at the department, and, as soon as the first bond was paid, it was delivered up to the sureties. The application of money, not directed otherwise by the debtor, is presumed to be applied by the creditor to pay the oldest debt. This is not only the principle of law, but it has been testified that this is the practice of the department, and that no direction had been given by Fowler or his sureties to apply the payments to the discharge of Barry's bond. Money had been paid in enough only to the discharge of one of the bonds; and if properly applied to the discharge of the first, the Postmaster General is now a defaulter to the Government to the amount of ten thousand dollars; and, according to the existing laws, his salary ought to be withheld until he shall have paid this debt to the Government. It has, however, appeared further in evidence, that a suit was ordered against Mr. Barry on this bond in the circuit court of Kentucky; that, on an issue in law, judgment was rendered

for the defendant, but that a new trial was granted, the cause opened for trial, but that afterwards it was discontinued or dismissed—for what cause, does not appear. Now, inasmuch as a judgment, on discontinuance or an entry of neither party, is no bar to another action for the same cause, the demand is still good, if not paid. It rests, then, upon two questions: the one of fact, whether any direction was given by Fowler, or his sureties, to apply the subsequent payments to the last bond; and, if not, the other question of law, whether the Postmaster General ought, or ought not, to have applied the payment to the discharge of the first bond. Now, if, on a full inquiry, it shall appear that no direction was given by the principal or his sureties to apply the payments to the discharge of the last bond, and that it has been the constant practice of the department to make the application to the discharge of the oldest debt, it would seem to me exceedingly difficult to come to a conclusion that a former Postmaster General had lost ten thousand dollars, any other way than by neglecting to collect it of the present Postmaster General. Now, the inquiry into this affair is still pending. Until all the evidence is out, I give no opinion. I only say, that, standing as the case now does before the committee, so far from its implicating Mr. Meigs, it fixes the delinquency upon Mr. Barry, the surety upon the last bond. I mean nothing more than that the burden of proof is shifted.

It seems to me surprising, indeed, that, in this incipient stage of the testimony, when the aspect, to say the least, is unfavorable to Mr. Barry, why his advocates should decline further facts, and demur to the evidence. If, upon full investigation, it shall appear that Mr. Barry's bond is paid, and the other is still due, and was, consequently, wrongfully given up, then Mr. Barry is not a defaulter. But if, on the other hand, it shall appear that the money paid by Fowler was applied, as was usual, to the payment of the first debt, without any direction of Fowler or his surety to the contrary, then the first bond is discharged, and it is of no importance who has it, and Barry is a defaulter to the amount of the second bond, viz. ten thousand dollars.

Another circumstance in this same case seems to me also very extraordinary. Strong insinuations are thrown by the Senators from Tennessee and New Hampshire against the witness, Mr. Bradley—that he fraudulently gave up Fowler's first bond to the surety. Mr. Bradley's character is known to the public; and as nothing has yet appeared before the committee to warrant even a suspicion of such a fact, it appears to me that the opinion thus advanced is as premature as it is gratuitous. A great sensation is excited in the minds of these gentlemen at the giving up of this bond. It is true that Mr. Bradley tells us that it was not usual to deliver up the bonds after they were paid, but it had been done in other cases, and that this was delivered up by the direction of the Postmaster General. Now, if this bond was paid, whatever may have been the practice, there was certainly nothing wrong in giving to a debtor his obligation after he had paid it. Very few debtors are willing to leave the notes or bonds which they have discharged in the hands of the creditors, though cancelled. They prefer to have them themselves, and it was so in this case, as Mr. Bradley tells us. There was quite a controversy between the Postmaster General and the surety before the bond was delivered. Now it seems to me that here also the Senators are prejudging not only the case, but the character of the witness. There was nothing wrong in giving up this bond if it had been discharged, and this is a question which we had just begun to examine.

Gentlemen protest that they are not the advocates of the Postmaster General, but surely their professions conflict mightily with their practice. Even their language often betrays the character in which they act. "We have



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proved," "we maintain," &c. when, in fact, the committee do not pretend to "have proved" any thing definitely, nor to "maintain" any thing positively. I did not understand the chairman to take any different ground. I agree with him perfectly. From what appears *prima facie*, it is the duty of the committee to prosecute the inquiry. We had no concern in bringing the subject before the Senate. We think it an extraordinary—an unprecedented procedure. With any thing personal said to that gentleman, I need have no concern. He is amply able to take care of himself. I trust he is, in this affair, far above the reach of their censure. His conduct in this investigation is as irreproachable as his reasoning is unanswerable.

Sir, the Senator from New Hampshire, who is so exceedingly apprehensive lest the inquiry should commit us on some supposed future impeachment, is, nevertheless, very ready to aver, and attempt to prove to the Senate, that the department is not verging to bankruptcy, and, if it were, the removing from office is not the cause. There may be consistency in this; it may be that an opinion formed, and become deep-rooted by urging it upon others, would not disqualify a judge or juror from deciding the same cause, and that an inquiry into the facts in a case, without forming an opinion, would disqualify. But I confess it puzzles me exceedingly to perceive how any rational, impartial mind can arrive at such conclusions.

Suppose, sir, that the Postmaster General should be tried here on a charge of wasting the funds and deranging the affairs of the office, by wantonly and wickedly removing experienced and faithful men from office, and supplying their places with ignorance and irresponsibility, and that Senator should be called on to take the oath impartially to try him, would he not have prejudged the case? He has already arrived at a settled decision, and enforced it with all his powers, that the funds of the office have not been squandered, and that the removals from office have worked no public injury—that all is right and prosperous. Sir, do gentlemen perceive the palpable absurdities to which their measures and their reasonings bring them?

If the Senators from Tennessee and New Hampshire do indeed intend to smother the inquiry, and the Senate intends to sustain them in it, then they will, as the most effectual means, pass this resolution. If it is found that things there, in the department, will not bear the light, the sooner this inquiry is suppressed the better. I do not say that these Senators have, or have not, better means of information than the rest of the committee. If they are in frequent communication with the Postmaster General, and obtain their information from him, they ought to recollect that this may not be from the most pure and impartial source.

Mr. President, the Senator from New Hampshire attempts to illustrate one of his arguments by an anecdote. It seems that some writer had invented a play, or some theatrical performance, in which there was a thunder scene, and he applied to a mechanic to invent the thunder: the exhibition went off very well, and the thunder manufacturer ascribed all the popularity of the piece to his thunder, and would, whenever he heard the piece praised, exclaim, "it all comes from my thunder." This was probably the intended application. In reply to the suggestion that the Postmaster General might not condescend to answer the inquiry, the chairman had said, very properly, but not in the language of menace, that the Postmaster General dare not refuse to answer the inquiry sent by a committee from this Senate, and superadded that this very discussion might have expedited the answer to a call of last session, made by a resolution offered by a Senator from Ohio, [Mr. BURNET,] adding, also, that the number of folios in that report might be calculated, if not intended, for effect. The Senator from New Hampshire talks loud of the moral courage of the Postmaster General,

comes back to his figure, and denies that it was the chairman's thunder which produced the effect. It appeared to me that the illustration and application were very awkward and remote. But I can well perceive another very appropriate application. We have heard the thunder of the eloquence of these two Senators in behalf of their friend, before they have heard his case; and they are, as his advocates, urging the Senate to acquit him before they try him. If they succeed, he certainly will feel exceedingly grateful to them, and will stand on high influential ground. Should, then, the Senator from New Hampshire become a candidate for some high office, (say minister to the Sublime Porte,) and should he need the aid of the Postmaster General to further his claims, he would remind him of his obligation by the admonition, "remember my thunder."

Should the Senator from Tennessee become a candidate, say for Chief Justice of the Supreme Court of the United States, an office for which he is so pre-eminently qualified, and he should need the aid of influential friends, (as I think he would,) he would say to the Postmaster General, "remember my thunder." This thunder, sir, is the very thing which is to be the means of rewarding these two gentlemen for all their patriotic labors. Their claims have been delayed—their hopes have been long deferred. But this acquittal of the Postmaster General, before they have examined his case, this exuberance of charity, will, if there is any gratitude extant, entitle them to this officer's entire and profoundest devotion.

[Here, at a late hour, Mr. HOLMES gave way; and, on motion of Mr. CLAYTON, the Senate adjourned.]

NOTE.—Mr. HOLMES would not knowingly add any remark in reply to any Senator which he did not make in the Senate. But he will be pardoned for noticing in the printed speech of the Senator from Tennessee, what that Senator did not say in the Senate. The Senator from Tennessee has (very modestly) quoted from his own speech of last winter on Mr. Foot's resolution. It seems, then, that a Senator from South Carolina had quoted some denunciation of a clergyman of New England, during the late war, consigning those who aided and assisted the Government to James Madison, Felix Grundy, and the devil; that, in the debate on Mr. Foot's resolution, Mr. Holmes had remarked that he had no doubt that had the reverend gentleman alluded to thought of him [Mr. H.] at the time, he would have added him to the copartnership. The Senator from Tennessee, in reply to Mr. H., observed that he would propose, as Mr. Madison had become old, to substitute President Jackson, and add Mr. Holmes, and then divide: Himself and the President, and Mr. H. and his Satanic Majesty. Mr. H., in reply, stated that he was much obliged to the Senator from Tennessee for the compliment he had paid him; that though he would have nothing to do with the concern, yet he admitted the justice and equality of the division, for the Senator had put himself and the President on an equality with Mr. H. and the devil. Mr. H. added, that he was not disposed to question the justice of this division. He, however, did not believe that the administration could do without his Infernal Majesty, for he had done most of their business. It was then believed by Mr. H. and his friends, that the wit, if any, had been fully met, and that, to say the least, the account was balanced. It seems, however, that the Senator from Tennessee was so delighted with his own wit, that he has quoted it in his written speech, though he did not quote it in the Senate. Now, if the Senator from Tennessee has set up for a wit, and is in danger of failing for want of stock, Mr. H. has no objection that he should use this specimen until it is threadbare and out at the elbows, provided he will do it at a time and place where Mr. H. can have an opportunity to reply. It may, however, be well to remark, that when one is so pleased with his own wit, that he is induced often to repeat it, he may possibly get into the mis-

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take that the people are laughing at the wit, when, in fact, they are laughing at the author.

Again: The same Senator, in another note, has stated that by Mr. Bradley's evidence it appeared that when he left the department there were forty-two clerks, a large majority of whom were opposed to the present administration, and that he was authorized to say that but three clerks had been removed by the present Postmaster General. Authorized! How? "Never heard him" (the Postmaster General) "express or intimate a wish or opinion upon the subject," and yet he is "authorized" to say this. The public would have been better satisfied that the Senator had not been in close connexion with the Postmaster General during this investigation, if he had informed them from whom he received this authority. Mr. Bradley is still under examination, and thus far no such fact appears as is stated in this note. When Mr. Bradley's examination is closed, we shall see the substance of his testimony. As it now stands, no such fact is proved, and this report of the testimony, on this point, is about as premature as the rest of that Senator's facts and reasonings. Thus far, it does appear, that when Mr. Barry took the office, of the forty-three clerks seventeen were believed to have been for General Jackson, twenty-one for Mr. Adams, and five neutrals; that, since that time, several have been removed; and that all the principal officers, including the two Assistant Postmasters General and the chief clerk, have been removed. So the evidence now stands. Is it possible that a member of a committee of inquiry of the United States' Senate into the conduct of a United States' officer, has reported to the Senate and the world the testimony of a witness before it was finished, accompanied by a declaration of the officer accused as proof of his innocence?

One word more in reply to what the Senator did not say. He did not threaten us with the interposition of the President to suppress this inquiry. No such language as this was used, or, if used, was not heard by Mr. H., viz. "I have said that I thought that neither the Senate nor the committee have the constitutional right to make this demand. Should the Chief Magistrate think so, of one thing I am certain, that he who never suffered his own private rights, or the rights of his country, to be invaded, will not permit an encroachment upon the right of his official station." Here is a plain and unequivocal avowal of the power of the President to suppress an inquiry of the Senate into the official conduct of the Postmaster General; and, had it been spoken and heard in the Senate, Mr. H. would have been unpardonable to let the speaker off without the severest animadversion. Of the President's prohibition in this case, that Senator is "certain," and the inference is, of course, that he speaks "by authority." It would seem then that this resolution emanates from the palace, and is an injunction upon the Senate to stop their "encroachment upon the rights of his official station. In brief, that the President has the right not only to shut the door of this department" against the Senate, but to suppress even an outdoor inquiry.

It is moreover due to the chairman and to the people of Maine, that one word should be added in regard to the reported speech of the Senator from New Hampshire. Mr. H. was in the next seat to the chairman when the remark was made, which the Senator from New Hampshire construes into a charge of bribery, and he is sure that the chairman intimated no such thing. The two Senators from New Hampshire and Tennessee had exultingly said that a verdict both in Maine and New Hampshire in favor of the removals of the Postmaster General had been rendered. The answer was, that this very exercise of the removing power might sometimes influence a verdict; and the chairman introduced the analogy of a verdict obtained by improper means, for no other purpose but to enforce and illustrate his position as to the general effect of Executive patronage on the elective franchise.

SATURDAY, FEBRUARY 12.

After disposing of some private bills and other morning business—

The eclipse having reached the greatest obscuration of the sun about this time, and the Senate appearing indisposed to go on with business—

A motion was made and carried to adjourn.

MONDAY, FEBRUARY 14.

Mr. FRELINGHUYSEN laid on the table the following resolution:

*Resolved*, That the President of the United States be required to inform the Senate whether the provisions of the act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," passed the 30th March, 1802, have been fully complied with on the part of the United States' Government; and, if they have not, that he inform the Senate of the reasons that have induced the Government to decline the enforcement of the said act.

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The Senate resumed the resolution of Mr. GRUNDY, as modified by Mr. LIVINGSTON.

Mr. HOLMES, being in possession of the floor, then rose, and observed, that though he fancied himself well prepared to go on with the discussion on the subject of the inquiry, yet, as he had been given to understand that the gentlemen on the other side were quite willing that the discussion should here, for the present, have an end, he was not indisposed to adopt that course, as he believed enough had already been said by himself and the chairman of the special committee [Mr. CLAYTON] to convince the gentlemen that they were on the wrong side. [No, no, from Mr. GRUNDY.] Well, then, continued Mr. HOLMES, if we let the discussion here drop, I can assure the gentleman it is not because we are not well prepared for the subject on our side, for I myself have taken some pains to prepare myself, and have no doubt but I might be able to enlighten the gentlemen something further in a good round speech, if they were so inclined; but I shall content myself, since it seems to be the opinion that the matter has been, on both sides, sufficiently discussed, by moving that the resolution be laid on the table, with the understanding that the sense of the Senate, without further discussion, be taken on it to-morrow at one o'clock. The motion prevailed.

TUESDAY, FEBRUARY 15.

FORT DELAWARE.

Agreeably to notice yesterday given, Mr. CLAYTON asked and obtained leave to report a bill for the relief of the officers and soldiers of Fort Delaware; which was twice read, and referred.

On introducing the bill, Mr. CLAYTON briefly remarked that the officers and soldiers, during the conflagration of the fort, principally exerted themselves to save the public property, in consequence of which they had little or no time to save their own. No fire engine had been provided for the protection of property in case of fire, and the destruction was in consequence the greater. Under these circumstances, he considered the individuals concerned entitled to relief.

THE INDIANS.

The resolution yesterday submitted by Mr. FRELINGHUYSEN, was then taken up.

Mr. BENTON objected to the form of the resolution, and wished it so modified as to make the call more simple.

Mr. FRELINGHUYSEN was willing to modify, but should have been pleased if the gentleman from Missouri had stated in what respect he desired the modification. He could then be able to give a proper answer. After a

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few remarks from Mr. F. in favor of his resolution, and a description of the views of the present Executive in relation to the Indians,

Mr. HOLMES addressed the Senate, and, in the course of his remarks, made allusion to the assumption of certain powers by the President on the Indian question, as encroaching on the legislative power and jurisdiction.

Mr. BELL asked for the yeas and nays on agreeing to the resolution, and they were ordered.

Mr. FORSYTH had hoped that the two Houses of Congress were done with the Indian discussion, more particularly as the matter had been brought before the Supreme Court.

Mr. NOBLE said a few words as to the oppressive nature of the laws of Georgia relative to the Indians within that State, and made some reference to his vote of last session on this interesting question.

Mr. PRELINGHUYSEN said he had presented this resolution for the purpose of certainly ascertaining the views and purpose of the Executive in respect to the Indian relations of the Government. We cannot, said Mr. F., officially rely upon any report or information but that which comes to us under the official sanction of the Chief Magistrate. And, sir, the Senate and the nation have a right to know his policy. I am aware that the Secretary of War, in his report to the President, of December last, has undertaken to dispose of the intercourse law of 1802, by a very short process. He has, indeed, cut the gordian knot. He assumes the whole ground of the Indian controversy; takes as established, without argument or proof, the whole matter in issue, and then very gravely draws out the conclusion, that this law is unconstitutional, and ought not to be executed. He asserts the red men to be citizens of the States, and inquires, as if surprised at the necessity of asking the question, whether a sovereign State has not the right to legislate over all her citizens, white and red? Sir, he has not even undertaken to show how the red men, the Cherokees, for example, became citizens of Georgia; and yet the suggestions of his report are put forth as a serious exposition of public law.

A brief reference to the provisions of this law, and the causes which led to its enactment, will shed very clear light upon its nature and obligation. Until the year 1796, the relations of the United States with the Indian tribes chiefly rested upon the stipulations contained in our treaties made with these nations, and the principles of general law. About the time first named, our Government considered this subject to be of sufficient importance to engross the distinct deliberation and legislation of Congress, and accordingly, in the session of '96, the Congress of the United States raised a committee on regulating trade and intercourse with the Indian tribes, and to preserve peace on the frontiers. While the matter was subsisting before this committee, a communication was made by the then President, (General Washington,) which, while it illustrates the character of that exalted statesman, affords a very valuable portion of history, that will refresh the hearts and encourage the hopes of every friend of the Indians. After the treaties made by the United States with the Cherokees in the years 1785 and 1791, usually known by the names of the treaties of Hopewell and Holston, intrusions were repeatedly meditated upon the territories of that nation, and Governor Blount, of the territory south of the Ohio, in 1796, apprised President Washington of these designs; upon which he addressed a message to Congress, as appears in the following extract from the journals of the House of Representatives:

"TUESDAY, February 2, 1796.—A message in writing was received from the President of the United States, by Mr. Dandridge, his secretary, as followeth:

"UNITED STATES, February 2, 1796.

"Gentlemen of the Senate and House of Representatives: I transmit herewith a copy of a letter, dated the

19th of December last, from Governor Blount to the Secretary of War, stating the avowed and daring designs of certain persons to take possession of land belonging to the Cherokees, and which the United States have by treaty solemnly guaranteed to that nation. The injustice of such intrusions, and the mischievous consequences which must necessarily result therefrom, demand that effectual provision be made to prevent them.

"GEORGE WASHINGTON."

Here, said Mr. F., the principles and spirit of Indian intercourse are traced up to their head spring. We rejoice to find their origin in the spirit of unbroken faith and sacred honor that sheds its radiance over this Executive document. Sir, this record of other times, now, when to break faith with an Indian is construed down into something short of dishonor—now, when the clouds are gathering over and around the hopes of these forsaken people—at this gloomy epoch in their history, to look upon this solemn acknowledgment of all their rights as "a nation," and our sacred obligations by "treaty," and under Washington's own hand, is a grateful subject for consolation. Would, sir, that General Jackson might be persuaded to put away from him all those hasty, ill-considered counsels, that are leading him away from the broad and luminous path of illustrious precedent.

But to proceed with the history. This message and the letter were, in the first place, referred to the Committee of the Whole House, and afterwards to a select committee of sixteen members, composed of Mr. Hillhouse, Mr. Cooper, Mr. Findlay, Mr. Jackson, Mr. Franklin, Mr. Henderson, Mr. Harper, Mr. White, Mr. Abiel Foster, Mr. Dearborn, Mr. Malbone, Mr. Back, Mr. Patten, Mr. Milledge, Mr. Greenup, and Mr. Crabb. In the selection of this committee, we perceive the importance that was attached to the subject-matter of General Washington's communication, and the principles that should regulate our Indian affairs. A committee of the first names in Congress, members from the different States, and Georgia of the number, took up the treaties made with these tribes, and the duties, rights, and privileges that grew out of our relations, and reported to Congress the first intercourse bill, which became a law in May, 1796, and which, in all its material provisions, is now the subsisting and unrevoked law of the land.

These treaties, said Mr. F., had, amongst other things, traced and settled the boundary lines of territory between the United States and the Indians. And in the few sections of this law, to which I shall invite the attention of the Senate, they will perceive that in the Congress of 1796, of 1799, and of 1802, the several periods when this law came under public consideration, these boundaries specified in the treaties were recognised and adopted, and became the governing line of territory, in the first section of the bill. This law, like the treaties, runs the broad line between the State of Georgia and the Cherokees, and recognises it as the boundary between separate and distinct nations—between "citizens of the United States" and "the Cherokees," in specific and appropriate terms. No one of all the enlightened and exalted men who filled the seats of power, and aided in the councils of the country in 1796, entertained the notion for a moment, that Georgia had even the color of a claim to the property or persons of these tribes of free, and, as to her, independent people, and they legislated concerning them accordingly. After thus fixing the boundary, the second section of the law enacts, "that if any citizen of, or other person resident in, the United States, or either of the territorial districts of the United States, shall cross over or go within the said boundary line to hunt, &c., or shall drive or otherwise convey any stock of horses or cattle to range on any lands allotted or secured by treaty with the United States to any Indian tribes, he shall forfeit a sum not exceeding one hundred dollars, or be imprisoned not exceeding six

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months. And by the fourth section it is further enacted, that if any such citizen or other person shall go into any town, settlement, or territory belonging or secured by treaty with the United States, to any nation or tribe of Indians, and shall there commit robbery, larceny, trespass, or other crime, against the person or property of any friendly Indian or Indians, which would be punished if committed within the jurisdiction of any State, against a citizen of the United States, &c., such offender shall forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding twelve months." Sir, who can fail to perceive how perfectly palpable is the distinction between the jurisdiction of any State of the United States, and the territory of the Indian nations? Every provision of this law is based upon this distinction, and would be absurd and incongruous without it.

Again, sir, the fifth section provides "that if any such citizen or other person shall make a settlement on any lands belonging, or secured or guaranteed by treaty with the United States, to any Indian tribe, or shall survey or attempt to survey such lands, or designate any of the boundaries, by marking trees or otherwise, such offender shall forfeit a sum not exceeding one thousand dollars, and suffer imprisonment not exceeding twelve months: and it shall moreover be lawful for the President of the United States to take such measures and employ such military force as he may judge necessary to remove from lands belonging or secured by treaty as aforesaid, to any Indian tribe, any such citizen or other person, who has made or shall hereafter make or attempt to make a settlement thereon." Here, again, the unambiguous principles of our national policy are developed too plainly to be mistaken, or misunderstood. A policy, thus sanctioned by the concurrent opinions of six successive Presidents, and by the harmonious legislation of Congress for the last thirty-five years, is suddenly assailed by the opinion of the Secretary of War, and sought to be frustrated and avoided—and for what, sir? For what? To enable the State of Georgia to break over this boundary—this sacred boundary—to invade the possessions of our allies—and deprive them of their property and liberties.

Let us for a moment review some of the features of Georgia legislation. Our act, be it remembered, prohibits all surveys or attempts at surveying of Indian lands, by any citizen of the United States, or other person. Georgia has, by a late act of her Legislature, resolved to survey the Cherokee country—now listen—

**SEC. 33. And be it further enacted,** That any person or persons who shall, by force, menaces, or other means, prevent, or attempt to prevent, any surveyor or surveyors from running any line or lines, or doing and performing any act required of him or them by this act, shall, on indictment, and conviction thereof, be sentenced to the penitentiary, at hard labor, for the term of five years. And the following section still further discloses the nature of the proceedings in that State, of which we complain.

**"SEC. 7. And be it further enacted by the authority aforesaid,** That all white persons residing within the limits of the Cherokee nation on the 1st day of March next, or at any time thereafter, without a license or permit from his Excellency the Governor, or from such agent as his Excellency the Governor shall authorize to grant such a permit or license, and who shall not have taken the oath hereinafter required, shall be guilty of high misdemeanor, and upon conviction thereof shall be punished by confinement in the penitentiary, at hard labor, for a term not less than four years: *Provided,* That the provisions of this section shall not be so construed as to extend to any authorized agent or agents of the Government of the United States, or of this State, or to any person or persons who may rent any of those improvements which have been abandoned by Indians who have emigrated west of the Mississippi: *Provided,* That nothing contained in this section

shall be so construed as to extend to white females, and all male children under twenty years of age."

Sir, said Mr. F., the crisis has arrived, when this conflict must be decided. Here is direct repugnancy between the legislation of the United States, and that of Georgia. Where is the Executive arm of the General Government to protect our laws and our treaties from violation? I cannot, sir, anticipate that the President will refuse to execute the laws of the land. I must hear it from himself. I maintain it, sir, as one of the soundest principles of our constitution, that the Executive does not possess the tremendous power of dispensing with the enforcement of public statutes. If a constitutional scruple shall affect the mind of a President of the United States, in respect to any act of Congress, he must get rid of his scruples, or he may lay down his commission: but while he holds the office, he must faithfully execute every law. It is absolutely imperative. The people of this country will jealously watch over this branch of Executive duty. They will expect its fulfilment, sir, to the very letter. Of all the men in this nation, the President is the last who should pause upon the requirements of any statute. He, at least, should be exemplary in obedience.

It may be, and has been said, that the opinions of the President may be inferred from the report of the Secretary of War, made on this subject, and by the President communicated to Congress. I know, sir, that a conclusion might be drawn from the silence of the Executive. But, on so momentous a question, I can leave nothing to inference. I submit, sir, that it is just and fair to the Chief Magistrate to propound a direct inquiry, and obtain from him a direct reply.

After some further discussion on the form as well as the substance of the resolution,

Mr. BENTON moved to lay the resolution on the table, to give the Senator from New Jersey an opportunity to modify it so as to call for certain specific information as to the Indian intercourse law of 1802; but the motion was negatived—16 to 25.

The question was then put on the adoption of the resolution, and decided in the affirmative by yeas and nays, as follows:

**YEAS.**—Messrs. Barnard, Barton, Bell, Benton, Burnet, Chambers, Chase, Clayton, Dickerson, Dudley, Ellis, Foot, Forsyth, Frelinghuysen, Grundy, Hayne, Hendricks, Holmes, Iredell, Johnston, Kane, King, Knight, Livingston, McKinley, Marks, Naudain, Noble, Poindexter, Robbins, Robinson, Ruggles, Sanford, Seymour, Silsbee, Smith, of Md., Smith, of S. C., Tazewell, Troup, Webster, White, Willey, Woodbury.—43.

**NAVS.**—Messrs. Bibb, Brown, Tyler.—3.

#### THE POST OFFICE DEPARTMENT.

The Senate then took up the following resolution of Mr. GRUNN, as modified by Mr. LIVINGSTON, viz.

*Resolved,* That the select committee appointed on the fifteenth day of December last to inquire into the condition of the Post Office Department, are not authorized to make inquiry into the reasons which have induced the Postmaster General to make any removals of his deputies.

Mr. NOBLE made some remarks in opposition to the resolution; when the question was taken on its adoption, and carried in the affirmative, as follows:

**YEAS.**—Messrs. Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, Livingston, Poindexter, Robinson, Sanford, Smith, of Md., Smith, of S. C., Tazewell, Troup, Tyler, White, Woodbury.—24.

**NAVS.**—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Marks, Naudain, Noble, Robbins, Ruggles, Seymour, Silsbee, Webster, Willey.—21.

FEB. 16, 17, 1831.]

*National Road.—Punishment of Crimes in the District of Columbia.*

[SENATE.]

WEDNESDAY, FEBRUARY 16.

The Senate then took up the following resolution, submitted yesterday by Mr. LIVINGSTON:

“Resolved, That a committee, to consist of three members, be appointed to prepare and report, at the next session, a system of civil and criminal law for the District of Columbia, and for the organization of the courts therein.”

On this resolution a debate took place, which lasted until near three o'clock, in which Messrs. LIVINGSTON, CHAMBERS, WEBSTER, FOOT, FORSYTH, HAYNE, BIBB, and NOBLE, took part.

After so long a discussion, the debate was arrested by Mr. FOOT, who read a paragraph from Jefferson's Manual, to show that, after an adjournment of Congress, no committee could sit in the recess, the two bodies being dissolved. He moved to lay the resolution on the table; which motion prevailed.

THURSDAY, FEBRUARY 17.  
NATIONAL ROAD.

Mr. BURNET laid before the Senate a letter from the Governor of the State of Ohio, transmitting a law passed by the General Assembly of the said State, entitled “An act for the preservation and repair of the United States' road” within the limits of that State.

Mr. B. remarked, that the first section of that law, and the first clause of that section, declared that the act should not take effect, or be in force, until the consent of Congress had been obtained; that, by the general provisions of the law, the Governor was authorized to erect toll-gates within the State, on such parts of the road as have been, or might hereafter be, finished, at distances not less than twenty miles; that the law established a rate of toll; that it required the money collected to be paid into the State treasury, and kept in a separate fund, to be called the United States' Road fund, the whole of which was to be expended in the repair and preservation of the road, and for no other purpose whatever, and that no more money should be collected than might be necessary for that purpose. He also said, that the rights and privileges of the United States, and of every individual State, were secured by the provisions of the law; that the mail was to pass free; that all persons in the service or employ of the United States, or either of them, and all property belonging to the United States, or either of them, was to pass free of toll; and that the law contained provisions for the punishment of persons who might be detected in the perpetration of malicious mischief, injurious to the road. Mr. B. moved that, for the present, the document lie on the table, and gave notice that he would, to-morrow, ask leave to introduce a bill declaring the assent of Congress to the law which he had presented.

The act was accordingly laid on the table.

#### PUNISHMENT OF CRIMES IN THE DISTRICT OF COLUMBIA.

The bill for the punishment of crimes in the District of Columbia was then taken up for a third reading.

When the bill had been read through,

Mr. HAYNE remarked that he had not paid that attention to the bill which would justify his acting upon it. He thought, however, that he heard the Clerk read a clause (in the 12th section) making it a penitentiary offence to send a challenge to fight a duel. He asked that it might again be read.

[After the reading of the 12th section of the act, which ranks duelling with forgery and other infamous crimes,]

Mr. H. said he was no advocate of duelling. He would be very glad if any means could be devised to put an end to the practice. But his experience had taught him that every attempt to legislate unreasonably upon that subject had only tended to make the matter worse. To class it, as the present bill did, with the crime of perjury and its

kindred offences, it seemed to him, would be productive of more evil than benefit. Under these circumstances, he moved to recommit the bill to the Committee on the District of Columbia, to give an opportunity for its revision in this particular.

Mr. WOODBURY observed that there was another clause in the bill which to him seemed rather extraordinary. It was that which made the offence of gambling punishable by confinement in the penitentiary. He wished, if the bill should be recommitted, to draw the attention of the committee to this clause.

Mr. CHAMBERS said, the clause alluded to by the gentleman from South Carolina, [Mr. HAYNE,] that of duelling, had met the attention of the committee, and the force of some of the objections had been felt. In his own view of the subject, the most objectionable clause was that in relation to testimony in relation to duels, where witnesses were called upon in cases of prosecutions for duels. He could not say that this was entirely reconcilable with his views of right; but, with regard to classing this crime with others of an infamous character, it was conceived that the most effectual way of destroying those fatal ideas which honorable and high-minded men entertained of the practice, was to degrade it, and place it on a level with crimes of the most infamous hue. This course, it was believed, would do more to exterminate this fell evil from the land than any other. It was designed to assign it that low and degraded rank, in crimes, which should make it infamous, and thus save the honorable and high-minded portion of mankind from participating in it. It was evident to the committee that nothing but public sentiment could correct this great evil; and if it was the sense of the Senate that the provision of the bill was inexpedient, it would be shown by voting for its recommitment.

The view taken by the gentleman from New Hampshire [Mr. WOODBURY] on the penalty for certain kinds of gambling, also deserved some consideration. He could, however, inform that gentleman that the provision was not entirely a new one. He instanced a case in his own State, (Maryland,) where an individual had been incarcerated in the penitentiary for this crime. In relation to the evidence of this crime, also, it was well known that it was difficult to procure it by any other means than through those who were themselves the victims, and were entrapped in the toils of the gambler.

Mr. C. said, if it was the sense of the Senate to recommit the bill, he should not strenuously oppose it, though he thought, as the subject was now before the Senate, its features could be regulated there.

Mr. WOODBURY said, in relation to the clause which he had alluded to, that of making gambling a penitentiary offence, he would only remark, that in the State which he had the honor in part to represent, and, indeed, in all the Eastern States, where it was conceded that the people were as strict in their moral views and feelings as in any part of the world, the crime in question was only punishable by fine. It might be, that in other parts, where the evil was more prevalent, stronger punishments were requisite. Of this he would not pretend to judge; though, in most of the constitutions of the Eastern and Northern States to which he had adverted, a clause was inserted declaring that no new or inordinate punishments should be inflicted.

Mr. POINDEXTER said that he was not an advocate for duelling. He referred to the laws of the several States upon the subject; to those of New York, Virginia, and, he believed, North Carolina. In those States the penalty for duelling was disqualification from office; and officers were required to take an oath that they had not been, and would not be, engaged in a duel. This was as far as any of the States went in their enactments on the subject. The honorable gentleman from Maryland, said Mr. P., must be aware that the most distinguished, the most honorable, and high-minded men in this or any other country



SENATE.]

*Punishment of Crimes in the District of Columbia.*

[FEB. 17, 1831.]

had been involved in duels; and he asked if there was not reason to fear that the suppression of the practice would lead to a worse result, the introduction of the stiletto. If duelling were rendered infamous or impracticable, would not men find it necessary to wear a dirk to defend themselves from insult? If a man of independent mind and honorable feelings partook of none of the characteristics of a bully, he would still defend his honor at any hazard. He asked if such a result had not been seen in Virginia, where penalties had been imposed upon the practice. He did not advert to that State with any feelings of disrespect; far from it; for there were men who held it creditable to be tenacious of their honor. But he believed that the enactment of severe penalties would have the tendency of compelling men to resort to the knife to redress their personal wrongs. In legislating for the District of Columbia, Congress should not go further than any of the States have gone. He was in any event opposed to ranking this offence with the most infamous of crimes.

Mr. FRELINGHUYSEN said he should oppose the recommitment of this bill. If no other consideration had done so, the remarks of the gentleman from Mississippi [Mr. POINDEXTER] had convinced him of the propriety of its provisions. He was ready to grant that high-minded and honorable men had given countenance by their example to this barbarous usage. But would any man, in this age, contend that it was essential to resort to the pistol or the stiletto to avenge personal injuries? He approved of this bill, and this mode of legislating upon this subject. It was saying to these high-minded and honorable men, if you persist in this infamous practice, we must show you that there is a power stronger than your false notions of honor. It is found in the laws of your country; and the result of your perseverance must lead to disgrace, degradation, and infamy.

Mr. F. said he was about to state, before he heard the remarks of the gentleman from Mississippi, [Mr. POINDEXTER,] what his own experience had taught him on this subject. In the State which he had the honor in part to represent, the only way to put down the practice had been found to be to brand the act with infamy. Such measures had been taken, and it had had the desired effect. It would doubtless have the effect here; for when the legislators of the country put their seal of condemnation upon it—when the youth saw that their fathers and legislators were bent on putting it down, it would soon grow into disrepute, and fall under the predominance of correct sentiments. In trying the experiment in the State of New Jersey, it was, indeed, found necessary to show that the pains and penalties enacted against the offence were meant to be enforced. But when this was discovered, and the brand of infamy was affixed to the crime, it had, in a measure, ceased to exist; it had had the effect of correcting the public sentiment. It is such an evil, said Mr. F., as every good man should unite his influence and his interest in correcting. Mr. F. said, in commencing the operation of the corrective in New Jersey, fears of some of the evils predicted by the gentleman did seem to be justified. But now, since it had been rendered infamous, if the crime was ever committed, it was done by stealth only.

Mr. LIVINGSTON said, the difficulty here encountered in this bill was a proof that it had been hastily drawn, and had not received that attention and digestion which it required. Of this he was before fully aware, when he had submitted his proposition of yesterday, which had been laid upon the table. He had not intended, however, to have interfered with the progress of the bill by making a single remark. But since a motion had been made, on which he must give a vote, he would make a few explanatory observations.

Mr. L. said there was, perhaps, no subject in criminal jurisprudence, on which so many inconsiderate steps had been taken, as that now under discussion. Existing laws

punish all such offensive words as come under the appellation of libels and slanders, but not those minor offences under the denomination of insults. In one case, the person aggrieved brings his suit at law; in the other, he sends a challenge. The reason is obvious; for these are the only remedies in his power.

Mr. L. here introduced a letter on this subject, referring to the effects of the course pursued by the State of Virginia, and an advocacy of that policy which renders duellists incapable of holding office. In this, Mr. L. said there was high authority for the belief that the enactments of Virginia had been highly beneficial. Mr. L. said he differed from his friend from Mississippi, [Mr. POINDEXTER,] in the idea he had advanced that the suppression of duelling would introduce the use of the stiletto. It was not in the nature of the American people to resort to such instruments. It did not belong to them. But there was another evil to be feared. It was that of impunity; the difficulty of procuring testimony in cases of duels, and the strong feelings entertained by jurors themselves in exculpation of offenders. The reason of this was obviously that the punishment was altogether disproportionate to the offence. Such he conceived to be the case in the present bill. He would favor the plan of disfranchising offenders, and thus affecting their pride and ambition, as the surest mode of preventing the commission of the offence. He should therefore vote for recommitting the bill.

Mr. TYLER said, he confessed he had not before understood the full force of this particular provision in the bill. For his own part, he was fully persuaded of the inefficacy and inadequacy of all legislation upon this subject. The idea of preventing duelling by punishments was a futile one: and enacting laws providing for shutting a man up in the penitentiary for the offence, was an absurdity. Why, said Mr. T., the very motive of the offender laughs at your bolts and bars; and shall he be deterred by such a motive, while he braves the hangman's halter?

The gentleman from New Jersey [Mr. FRELINGHUYSEN] had attributed the decrease of the practice of duelling in his State to the enactments of the Legislature; but if that gentleman would seriously reflect upon the matter, he believed he would coincide with him in attributing the effect to a deeper cause than any influence of law. He must also reply to an observation of his friend from Mississippi, [Mr. POINDEXTER,] who supposed that the people of the State which he had the honor in part to represent, were driven to the use of the stiletto in consequence of the enactments against duelling.

[Mr. POINDEXTER explained. He believed the instances were rare.]

Mr. T. said they were extremely rare; he had known of none since the enactments of the law against duelling. At the time of its enactment, such anticipations had been harbored, but they proved to be mere creations of the imagination. No such results had flown from it. The operation of the law had had directly the opposite effect; and this was felt by those whom it operated on. The fiery spirit of the South would sometimes manifest itself, said Mr. T., in their young men, and result in a challenge to fight a duel. His experience taught him that the consequence was a greater degree of urbanity in the intercourse of individuals, and he could safely say there were less personal difficulties or broils existing in the circles of society among his constituents than could be found elsewhere. He could attribute it to no other cause than the one he had adverted to. If you would put down this evil, said Mr. T., think not to do so by means of punishments. Attack the standing of the individuals in their eligibility to office, and you come nearer to the root of the offence. He agreed with the gentleman from Louisiana, that to shut the door to office, honor, and emolument, to the participants in the offence, was the most effectual method of correcting it. Do this, and your work is accomplished.

FEB. 18 to 21, 1831.] *General Appropriation Bill.—Turkish Negotiation.—Internal Improvements.*

[SENATE.]

Mr. T. said he should have been willing to have let the provision stand in the bill as it was reported, but it certainly went further than he was aware of.

Mr. CHAMBERS said, from his present situation in relation to this bill, he felt somewhat embarrassed and restrained in relation to his action upon it. The question certainly involved a great principle; and in order that the views of gentlemen might be deliberately made and calmly expressed, in order to give ample time for its consideration, he would move to lay the bill on the table for the present.

The motion was agreed to; and,

On motion of Mr. WHITE, the Senate went into the consideration of executive business; and, after some time spent therein,

The Senate adjourned.

FRIDAY, FEBRUARY 18.

Agreeably to notice given, Mr. BURNET asked and obtained leave to introduce a bill declaring the assent of Congress to an act of the General Assembly of the State of Ohio, therein recited; which was twice read, and referred.

Mr. WOODBURY gave notice that he would, to-morrow, introduce a joint resolution, relative to a subscription, on the part of Congress, to a stereotype edition of the laws of the United States.

#### GENERAL APPROPRIATION, BILL.

The Senate then took up the general appropriation bill, together with the amendments reported by the Committee of Finance of the Senate.

The sixth amendment was as follows:

"For the outfit and salary of an envoy extraordinary and minister plenipotentiary; for the salaries of a secretary of legation; of a drogoman and a student of languages at Constantinople, and for the contingent expenses of the legation, \$74,000; that is to say, for the outfit of an envoy extraordinary and minister plenipotentiary, \$9,000; for salary of the same, \$9,000; for salary of a secretary of legation, \$2,000; for the salary of a drogoman, \$2,500; for the salary of a student of languages, \$1,500; for the contingent expenses of the legation, \$50,000.

["For compensation to the commissioners employed in negotiating a treaty with the Sublime Porte.

"To Charles Rhind, an outfit of \$4,500, deducting therefrom whatever sum may have been paid to him for his personal expenses.

"To Charles Rhind, David Offley, and James Biddle, at the rate of \$4,500 per annum for the time that each of them was engaged in the said negotiation.

"For compensation to the commissioners employed on a former occasion for a similar purpose.

"To William M. Crane and David Offley, at the rate of \$4,500 per annum for the time that each of them was engaged in the said negotiation."]

Mr. TAZEWELL moved to strike out the part above included in brackets, and this motion gave rise to a debate which occupied the Senate until past four o'clock, in the course of which allusion was made to the Panama mission, and the power of the President denied to appoint commissioners to conclude a treaty without submitting to the Senate the appointment, for confirmation, at the next ensuing session after the appointment. The gentleman who participated in the debate were MESSRS. TAZEWELL, CHAMBERS, SMITH, of Maryland, BELL, KANE, KING, and SANFORD.

To give an opportunity for Mr. TAZEWELL to reply to gentlemen opposed to his motion to strike out that part of the amendment before noticed,

The Senate adjourned.

SATURDAY, FEBRUARY 19.

The Chair presented a letter from William A. Davis, of Washington, in which he proposes to furnish five hundred copies of the laws of the United States, in seven volumes, including those relating to the District of Columbia, and the various treaties made by the United States with foreign Powers, as well as with the Indians, at twenty dollars per set, or one thousand copies at eighteen dollars per set; which was laid on the table.

Mr. BARNARD presented two memorials from upwards of five hundred citizens of the city of Philadelphia, engaged in the manufacture of iron, praying that the duties on foreign iron may not be reduced or rescinded; which was referred.

#### THE TURKISH NEGOTIATION.

The Senate resumed the consideration of the amendments to the general appropriation bill—the question being on Mr. TAZEWELL's motion to strike from the sixth amendment of the Committee of Finance the compensation proposed for the negotiation of the Turkish treaty.

Mr. TAZEWELL was entitled to the floor; but, with his consent, Mr. ELLIS moved to lay the bill and amendments on the table, with a view to going into the consideration of executive business.

Mr. SMITH, of Maryland, remarked, that there would be no money to meet demands at the treasury until the bill passed.

Mr. ELLIS withdrew his motion.

Mr. KANE then submitted an amendment, to the following effect:

To strike out the items proposed by Mr. TAZEWELL to be stricken out, and to insert, in lieu thereof, the following:

"To the persons heretofore employed in our intercourse with the Sublime Porte, the further sum of \$15,000, in addition to the sum of \$25,000, appropriated for the contingent expenses of foreign intercourse."

Mr. ELLIS then renewed his motion; and the bill and amendments were laid on the table, and the Senate went into secret session, and remained with closed doors until the hour of adjournment.

MONDAY, FEBRUARY 21.

#### INTERNAL IMPROVEMENTS.

Mr. HAYNE rose, and remarked, that, at the opening of the present session, the message of the President of the United States contained a clause relative to internal improvements, which was referred to the committee on that subject. His object in rising at this time was to ask of the chairman of that committee whether the committee would make a report on the subject during the present session.

Mr. HENDRICKS (chairman of the Committee on Internal Improvements) said he could only reply, [he had heard the gentleman from South Carolina indistinctly] that he could not say whether the committee would report or not at this session. He, for one, was not in favor of submitting an abstract report on the subject. At the instance of the Senator from Virginia, [Mr. TYLER,] the matter had been referred to the committee of which he was chairman, and he had no doubt that gentleman could give the Senate more information on the subject than it was in his power to do.

Mr. TYLER said he was of opinion it was due to the President to make some response on the subject named, which had been noticed in his message. He himself had devoted considerable time in the preparation of a report on the subject, which he had intended to present to the Senate; and he remarked, on the importance of a direct answer to the message of the President. There was no reason to doubt that the draft of a report, which had been

SENATE.]

Turkish Commission.

[FEB. 22, 1831.]

prepared by him, would have been satisfactory to the Senate, and to the people. He had received the co-operation of the Senator from Mississippi [Mr. POINDEXTER] in the committee, though that gentleman and himself being in the minority, they had been overruled. He felt this explanation due to himself. Whether a report would be made, must, then, of course, depend on the majority of the committee. He had taken this opportunity to shake off all responsibility, so far as he was concerned.

Mr. DUDLEY said that the gentleman from Virginia was correct in what he had stated. He could not, however, sanction the report prepared by that gentleman, and was, for himself, of opinion that it would be better for the committee to make no report on the subject.

Mr. HAYNE suggested, for the consideration of the committee, that when they had arrived at the conclusion not to make a report, it would be well for them to move to be discharged from the further consideration of the subject.

Mr. HENDRICKS said, a motion like the one just suggested, he might probably have made, but for his opinion that it would lead to a debate, tedious and unprofitable. He had no disposition unnecessarily to consume the time of that body. There were matters for consideration before the committee, which he thought were of more importance, and should have the preference. If any member of the committee chose to make the motion suggested by the gentleman from South Carolina, certainly he should not object to it.

Mr. POINDEXTER said he had carefully examined the draft of a report before referred to, prepared by the gentleman from Virginia, [Mr. TYLER,] and he felt it due to himself to say that he coincided with the views of that gentleman, as expressed in the report. The question of constitutionality was not dwelt upon in it: it had reference to the expediency of involving the nation in a debt which, in his opinion, could never be paid. The influence which such an extensive Executive patronage would have upon the institutions of the country was also noticed. By reason of the objections of the gentleman from New York, [Mr. DUNN,] the committee had not agreed upon a report. No report would be made, therefore, unless that gentleman would concur with the minority of the committee; and on him, in consequence, would the responsibility rest.

Mr. P. (no other gentleman rising to speak) then remarked that there was some business of a confidential nature left unfinished at the time of adjournment on Saturday, and he would now move to go into the consideration of executive business. The motion prevailed, and the Senate sat with closed doors until near four o'clock; when The Senate adjourned.

• TUESDAY, FEBRUARY 22.

### THE TURKISH COMMISSION.

The Senate resumed the consideration of the amendments to the bill for the support of Government for the year 1831; the amendment offered by Mr. TAZEWELL, and as further proposed to be amended by Mr. KANE, being the pending question.

Mr. TAZEWELL rose, and addressed the Senate as follows:

If I had consulted my feelings, rather than my sense of duty, I certainly should not have made the motion I did a few days since, by which the discussion then commenced has been produced. In this discussion, the infirmity under which I labor prevented me at that time, and, I fear, will still disable me, from doing justice to the subject. But, as I have commenced the task, (however laborious and even painful it must be in my present situation,) I will now endeavor to complete it, confiding in the Senate, who well know how I am connected with this matter, and

who witness my present condition, to pardon this ungrateful obtrusion upon their attention.

In moving to expunge that portion of the amendment proposed by the committee, which goes to provide for the payment of "an outfit and salaries" to "the commissioners," appointed as well by the late as by the present President, "to negotiate a treaty with the Sublime Porte," I stated most explicitly that it was not my purpose to deny to these persons the money which the committee proposed to award as compensation for the services they were supposed to have rendered; but that my object was to express, in this manner, my own decided disapprobation of what had been done in this behalf, as well as of the mode in which this remuneration was now proposed to be awarded to them. I said, that if a bill having for its object the compensation of these persons, should be introduced into the other House, where it ought to originate, and should receive the sanction of that body, such a bill would meet my cordial support here, even if it should bestow upon these individuals more than the committee proposed to allow them by their amendment. This explicit declaration, repeated more than once, I had supposed, would have protected me against the imputation of the Senator from New York, [Mr. SANFORD,] which was strongly implied in the question he propounded, when he so emphatically asked if I meant to claim to the United States the full benefit of the labor and time of these persons, and deny to them any equivalent therefor. To this question, thus asked, I will again answer with equal emphasis, No. It is not my wish to refuse to these men one single cent. So far from it, inconsiderable, nay, doubtful, as I believe the benefits to be, which they are supposed to have rendered, yet I will go hand in hand with the Senator from New York, or any other, in awarding for their service, not a mere *quantum meruit*, but a liberal and ample allowance for all their time and all their labor, nay, even for their honest though mistaken efforts in this regard.

Having said thus much, I must take the liberty of signifying to the honorable Senator from New York the very wide distinction (which to my own mind is quite obvious) between such a voluntary award of compensation to those who intended well and acted honestly, and voting an appropriation of money, upon the application of the Executive, in redemption of the faith of the State, said to be pledged by those who I cannot agree had any authority so to commit it. One would be the acknowledgment of a debt, of a demand of strict justice, which, although Congress may have the physical power, they have not the moral right to refuse. The other is a mere application to our equity, not addressing itself in any way to our pledged faith. One is a common exercise of our power of appropriation, connected with nothing but the special merits of the particular case, and constituting no obligatory precedent for any other even of a like kind. The other is a direct sanction of what I believe to be an unconstitutional act of the Executive, and a voluntary abandonment on the part of the Senate of its rights and privileges. One mode of proceeding would furnish to the other House all the facts existing in the case, and necessary to a correct exercise of their discretion over it. The other is well calculated to mislead that body, by holding out the idea that the appointment of the persons for whom compensation is thus provided, has received the confirmation of the Senate; and that the public faith is thereby pledged to award to them the allowance customary upon such occasions.

The Senate cannot fail to understand the broad difference between the two cases; and, whatever may be their opinion of the correctness of the principles upon which this distinction depends, they will nevertheless see in the distinction itself the reasons for the course I am disposed to pursue. This course will lead me to co-operate wil-

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lingly with the most liberal, in awarding compensation to these individuals for what they have done, whenever that subject shall be brought properly before me, but will not permit me to vote one cent, in the mode now here proposed.

If any Senator, said Mr. T., shall concur with me in the opinion I have thus expressed, that the power which has been exercised by the President upon this occasion is not granted, but forbidden to him by the constitution, and that its exercise has been in flagrant violation of the rights and privileges of this body, conferred upon it for the wisest purposes, then I know that my motion will receive support. But if a majority of the Senate shall differ with me in this opinion, it will be rejected, as it ought to be. In any event, however, I shall have the satisfaction of bringing this much vexed question to a conclusion. Presented as it now is, it must be decided one way or the other. There exists no mode of eluding it. It is the conviction of this, which gives to the present discussion all the interest it has for me; and which alone could have induced me to trespass upon the attention of the Senate at this time.

It has now been so long since I presented to the Senate a statement of the facts existing in this case, out of which the questions I mean to discuss arise, that it seems necessary to preface what I have to say by a brief recital of them again, that none may suppose I am about to waste your time by an idle dissertation upon some mere abstract proposition, which, whether true or false, is of little consequence to the country. I hope, therefore, that the Senate will favor me with their attention, while I repeat the statement formerly given.

Between the Ottoman empire and the United States no political connexion, or diplomatic relation of any kind, ever existed, from the hour which gave birth to this republic as an independent sovereignty, until the year 1829. It is true, ineffectual attempts were made to establish such relations and connexions, by both the Adamses while they presided in our Government. But the effort of the elder Adams, although approved by the Senate, failed, by reason of the refusal of the minister appointed by him to accept his appointment, and the subsequent abandonment of this scheme by those with whom it originated. And the secret efforts of the late President to establish such relations, without the advice or knowledge of the Senate, also failed, for reasons recently disclosed to this body, to which I will not now make any further allusion. Whatever may have been the desires of these Presidents, however, the fact is undoubted, as I have stated it to be, that until the year 1829 there never was any connexion or relation between the United States and the Sublime Porte, more than now exists between the former and the empires of China and Japan.

In this state of things, on the 12th day of September, 1829, and during the recess of the Senate, the present President caused letters patent to be expedited from the Department of State, signed by his own proper hand, and authenticated by the great seal of the United States, whereby he commissioned the three persons named in the amendment proposed by the committee, to be commissioners on the part of the United States, and thereby endowed them with plenipotentiary powers to negotiate a treaty of commerce and navigation with the Ottoman Porte.

I beg the Senate to bear in mind that this authority was not conferred upon these persons by any private letter or warrant written by a Secretary, and intended for their own guidance and governance merely; but that it purports to be granted by the Chief Magistrate himself, is communicated to them by letters patent, under his own signature, authenticated by the great seal of the United States, addressed to all whom they might concern, designed to be exhibited to the inspection of a foreign sovereign, and to

be exchanged against similar powers to be granted by him to others who might equally possess his confidence. To whomsoever this seal was shown, it proved itself. When recognised by any sovereign, it entitled those who bore the commission it authenticated, to all the rights, privileges, and immunities accorded to the ministers of any potentate on earth; and authorized them to pledge the faith and honor of this nation to the performance of any act within the scope of the full power it purported to bestow. This is the character of the commission granted by the President upon the present occasion, a copy of which is now upon our files.

In pursuance of this commission, and of the instructions that accompanied it, Mr. Rhind, one of the commissioners, proceeded from New York (where he then was) to Constantinople. The other two commissioners were already near the scene of action; one of them being the commander of our squadron in the Mediterranean sea, and the other a commercial agent of the United States, resident at Smyrna. Arrived at Constantinople, Mr. Rhind exhibited his commission to the Sultan, was received and accredited as the representative of the United States, and his proposal to negotiate a treaty was accepted. Other ministers, clothed with equal authority, were then appointed by the Turkish monarch, to confer with him upon this subject. They met, exchanged their powers, and began the business of negotiation. This was terminated by a treaty, which, although it bears date early in May, 1830, I will presently show was not concluded until several weeks afterwards.

The Senate of the United States met on the first Monday in December, 1829, and continued in session until the last Monday (being the 31st day) of May, 1830. During this whole period, no information of these appointments was ever communicated to this body, nor were they at any time consulted, in any form whatever, as to the propriety of instituting this mission. The message of the President to both Houses, at the opening of the present session of Congress, in announcing that a treaty had been entered into with the Sublime Porte, gave the first intimation to any Senator, that any negotiation had ever been had with that Power.

Such are the facts existing in this case, as every member of the Senate well knows; and, by these facts, these two questions are presented: Did the President possess any authority to institute such an original mission during the recess, and without the advice and consent of the Senate? And if he did, was it not his bounden duty to have nominated to the Senate at their next session the persons he had so appointed during the recess?

The amendment offered by the committee, proposing, as it does, to give "an outfit and salaries" to these "commissioners" thus appointed, is a direct affirmation of the President's authority so to appoint them, and an approbation of his course in withholding all knowledge of their appointments from the Senate. Then, the proposition involved in my motion is, will the Senate sanction this usurpation of authority, which has been thus exercised in flagrant derogation of their rights? This is the question; and it is vain for us to seek to hide it from ourselves. A power has been exerted by the President, without our advice and consent; and he now comes here, asking an appropriation of money, as the pledge of our acquiescence in, and approbation of, that which he has so done. Ought we to grant the application which has this object? I pray the Senate to consider the matter well, before they agree thus voluntarily and forever to surrender their highest privilege, conferred upon them by the constitution for the wisest purposes.

Before I undertake to examine the questions I have stated, let me call the attention of the Senate to the nature and character of what is supposed by some to be the "trifling" power which has been exerted upon this occasion.

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If the President alone, without the advice and consent of the Senate, may originate a mission to a State with which we have never before had any political connexion or diplomatic intercourse, all must concede that he may compound that mission of what materials he may think proper. If he may despatch one minister, he has the same authority to send three, as he has done, or five, as was done in the negotiations at Ghent, or so many more as he may think fit. The same power he possesses to send ministers, he must also possess to accompany them with such and so many secretaries, interpreters, students of languages, and other attachés, as in his discretion he may judge useful to his new legation. And if he may appoint all these, doubtless he may contract with all and each of the members of this newly recruited *corps diplomatique*, as to the quantum of the compensation to be paid for their services. Thus he will have an unlimited power to pledge the public revenue to any extent he may choose. We shall then have these strange anomalies in our Government, that the President, who cannot touch one cent even of his own salary without the consent of both Houses of Congress, may, nevertheless, by his own act, properly create any charge upon the treasury in favor of another which he may think proper; and although, as to our long established and approved diplomatic connexions, the President must not enlarge the establishments fixed by Congress, yet, as to all new relations, his own discretion is the only check upon his own will.

Nor is this all. If the President alone, without the advice and consent of the Senate, may originate a new mission to Turkey, a Power with which the United States never had any political connexion or diplomatic relation, he certainly must have the same authority as to any other State. Then, the moment the Senate adjourns, he may adopt the suggestion of Mr. Rhind, contained in one of the letters now on your table, which has been read, and despatch a troop of diplomatists to Armenia, and another to Persia, on missions to which I am very confident the Senate would never give their advice or consent. If the matter should end here, although I, and the very few others who still think as I do, might regret this unexpected extension of Executive patronage, and useless waste of the public treasure, yet it would not be productive probably of much other positive mischief at present. But it might not end here.

Sir, we live in strange times. Revolutions of Government, and the dismemberment of empires, events, which formerly were almost of as rare occurrence in the political world, as those terrible convulsions of the natural world, which sometimes have shaken to its centre the globe we inhabit, have of late become quite common incidents. We now feel surprise if our newspapers do not furnish us, daily, with the details of some sanguinary civil conflict, of some new change in long established Governments, or of some division of ancient States and empires. Old dominions are almost hourly tottering to their downfall, and new sovereignties, springing from their ruin, are claiming to be recognised as independent members of the great family of nations. At such a season as this, while the thunder rolls and the lightning gleams in the distance only, it becomes us to look well to the ship in which our all is embarked. Our country expects every man to do his duty; and the first duty she enjoins is a faithful observance of the mandates of her constitution. If the President alone, without consulting either House of Congress, may institute an original mission to Turkey, so he may to Greece, to Egypt, to Belgium, or to Poland. Now we all know, not only what might be, but certainly would be, the result of this. It would be just cause of war; and the United States would at once be involved in that dreadful conflict which seems but to wait the return of spring to deluge Europe once more with blood, and to threaten the repose of all Christendom, perhaps of all the world. Here,

then, would be another anomaly in our Government; for while Congress alone is authorized by the constitution to declare war, by the mere exercise of this "trifling" power of despatching a minister to a new State, the President alone would be authorized to bring about that very state of things which the wise authors of that instrument certainly intended to commit to the discretion of Congress only.

Such is the nature, and such may be the effects, of the "trifling" power that has been exerted by the President upon this occasion, and which we are now asked to approve, to sanctify, and so to perpetuate in him and his successors. Let me not be told, as has been more than insinuated by some, that this vast power will be lodged in the discretion of the President; and that we should have so much confidence in the wisdom and virtue of this officer, as to believe that the power will not be abused or exercised indiscreetly. Sir, I never have had, and I never can have, so much confidence in any President, as willingly to confide to his unchecked discretion any important power, with even a hope that it will not be abused. It is in the nature of man to covet power, and to abuse that which he has, in order to acquire more; and, of all forms of Government, this elective monarchy of ours is least calculated to repress this natural proclivity of its temporary chief, especially if he desires to retain his place for another term. Confidence in the discretion of their Executive has ever been the bane of republics, from the earliest day; and I speak in the spirit of our own constitution when I say that, instead of such confidence, it inculcates distrust in every line. Under the influence of this spirit, I denied the claim to this identical power, when it was asserted by the immediate predecessor of the present incumbent of the Presidential chair; and under the same influence I now deny it to him. In the discreet exercise of all the powers conferred upon him by the constitution, he ever has had, and ever shall have, my sincere and cordial support; but whenever he oversteps the limit there prescribed, I will oppose his lawless acts with the same zeal and freedom I have ever heretofore manifested upon other like occasions. Has he done so in the instance before us? This is the question, to which I now invite the attention of the Senate.

Mr. President, whatever may be the opinions of some as to the inherent powers supposed to be enjoyed by this body, or some other departments of this Government, I think we must all agree that the Executive has no such inherent or undefined authority. All his powers must be derived under some express grant contained in the constitution. Inherent power in him would be but a courtly term to denote prerogative; and the exercise of any ungranted authority by him is nothing else than mere usurpation. Let us then turn to the charter, and see if that contains the concession of any such power as has been here exerted.

It is true that the first section of the second article of the constitution vests in the President "the Executive power;" and equally true that the power which has been exercised upon this occasion, is properly an Executive power. Therefore, if there was no other provision in the constitution upon the subject than this, no doubt would exist that the President was authorized to do that which he has done. But the constitution does not stop here. Very soon after this general grant of the Executive power, and in the next section of the same article which contains the grant, the constitution proceeds to check and restrain the power so granted, by prescribing the manner in which alone the President must exercise it. Thus, in the second paragraph of the second section of this same second article, it declares that "he shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur;" and then, that "he shall nominate, and, by and with the advice and consent of



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the Senate, shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court; and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law." Hence it is obvious, that, although the Executive power is vested in the President alone, he is expressly inhibited from making treaties, (if indeed that is an Executive power,) or appointing to any office of the United States, (which certainly is such,) without the advice and consent of the Senate. But the officers in question never have been nominated to the Senate, nor has this body advised or consented to their appointment in any way; therefore, the act of the President in conferring these appointments without the concurrence of the Senate can derive no sanction or support from this part of the constitution.

If this act can be justified at all, its justification must be sought for in the next paragraph of this same section, which declares that "the President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." This is the only part of the constitution which has affinity to, or connexion with, the power in question. Let me then inquire whether the desired justification can be found here.

The general rule is such, as I have read it from the constitution, that appointments to office must be made by the President "by and with the advice and consent of the Senate." Under this rule, the President alone has no more authority to appoint without nominating to the Senate, than the Senate have to advise the appointment of one not nominated by him. The exception to this rule is contained in the clause I have just read. But to bring the case within the purview of this exception, and so to take it out of the operation of the rule, these three things must occur: There must be a vacancy—this vacancy must have happened—and this happening must have taken place during the recess of the Senate. Unless all these things concur, the President can find no support for the power he has exercised, in this exception. Now I undertake to show that, instead of the concurrence of all these events, not one of them existed on the 12th day of September, 1829, when these appointments were made by the President alone.

Mr. President, as this constitution was certainly intended by its authors to be exhibited to the people, to the end that it might be read and understood by them, in order that, when understood, if approved, it might be adopted by them, I have ever believed that the true rule of construing it was to give to all its familiar terms their popular signification at the time of its adoption. In that sense, such terms were probably first used; in that sense, they were certainly afterwards understood; and, being adopted in that sense, their signification should ever afterwards remain unchanged. If this is not so, then indeed is the constitution "a mere nose of wax," which may be pressed into any shape, not only by designing and ambitious statesmen, but by every drivelling philologist or moon-struck metaphysician who may choose to amuse himself by a disertation upon the ever-varying meaning of words.

Trying the provision I am now considering by this rule, I ask of every honorable Senator here present, if any doubt ever did exist among the people of the State he represents, as to the meaning of the terms "vacancy in office." Throughout our whole land, their meaning was and is the same. Every where, and at all times, except in yonder public edifices, they have been considered as denoting an actually existing office, which, having been once filled, by some cause has afterwards lost its incumbent, and is so made vacant. The idea of actual vacancy, in mere possible offices, which never had been, and never might be filled, is much too subtle to have been suggested by the wisdom which dictated, and much too refined for

the common sense that adopted, this constitution. Original existing vacancy, in non-existing and merely potential offices, like original sin, is a mystery. Faith in revelation may oblige us to adopt the belief of the latter, but each surpasses the powers of unaided human reason; and if we yield assent to the former, like good Catholics we must say, *Credo quia impossibile est*.

If, however, any doubt could exist as to the meaning of this term "vacancy," when regarded alone, all such doubt must vanish when we examine its context, and consider it in connexion with the other words with which we find it here associated in the constitution. According to these, it is not every vacancy which the President may fill up without the advice and consent of the Senate, but such vacancies only as "may happen;" and which may happen too "during the recess of the Senate." Now, according to the common signification of the term happen, it is never applied to denote certain events, but it is applicable to denote such occurrences only as casually may produce, which are therefore either unforeseen, or if seen, as possible in themselves, are quite uncertain as to the time of their occurrence. We should not speak reverently certainly, should we say that the sun happens to rise, or that the tides happen to change. There is nothing fortuitous in these events; they are foreseen, foreknown, and must occur, until it pleases Him who has so ordained, to change the order of his own providence. With as little propriety might we say that our chief magistracy happens to be elective, or the tenure of our judicial offices happens to be during good behavior. These things too are pre-ordained, and must exist while the constitution remains unaltered. Yet we may well say, of the death, resignation, removal, or disability of an officer, that it happens; because, even where the event is certain, the time of its occurrence is unknown and uncertain.

But if we could refer this term "happen," which denotes casualty only, to the occurrence of events pre-ordained by the constitution itself, still the happening of such events must take place during the recess of the Senate, to enlarge the general power of the President. Then, if we could adopt as real this mere vision of existing vacancy in non-existing but possible offices, we should not aid him much by such a subtle refinement. For even if the office always existed potentially, it was always actually vacant, until it was once filled; and who can properly affirm of such an original and eternal vacancy, that it happened during the recess of the Senate, rather than during its session? Unless it happened during the recess of the Senate, however, the President has no power to fill it up without their advice and consent.

Mr. President, this question is much too important, as I have shown, I think, for me to permit it to rest even here. What I have said, I should consider as sufficient upon any ordinary occasion; but I will endeavor to make it so plain, that there shall not remain a loop whereon to hang a doubt.

It is a sound and obvious rule for the construction of every instrument, that where the same words are repeated in it, they must always receive the same interpretation. Therefore, whenever we can fix their signification beyond doubt, in any one instance, that meaning must ever afterwards be attached to them, when they again occur, unless the context shall plainly show that they were used in a different sense. Now an inspection of the constitution will show that the words used in the clause I am now examining, have been used twice before in the same instrument. They are there used, too, under circumstances which defy doubt as to their signification; and their true interpretation has been fixed and settled, not only by the decisions of this body, but by the uniform and unvarying practice in all the States, from the year 1789 to this hour. In this practice, every one, and at all times, has

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acquiesced; and if there can be any thing settled under a written constitution, it is the meaning of these words.

It is the purpose of the very first article of the constitution to create a House of Representatives as one of the branches of the legislative department. Therefore, in the first part of the second section of that article, it prescribes the rule for ascertaining the number of which this House shall consist; and by whom, and for what term, this number shall be chosen. Having thus provided a full and complete House of Representatives, the authors of the instrument, foreseeing that casualty might vacate the seats so filled, and this during the term for which their incumbents had been elected, proceed in the fourth paragraph of the same section to provide for such events, by these words, "when vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies." Here then is an office created by the constitution itself, which the Executive of every State is imperiously required to fill in the mode prescribed, whenever vacancy shall happen in it. Then, the moment this constitution was adopted, there was not a merely possible office, but one of actual existence, as to the filling of which no discretion existed, provided this original vacancy could be considered as referred to by the terms I have read. But never did any Governor of any State conceive that this provision gave to him any authority to issue writs of election to supply these original vacancies. No such example exists; and such a procedure would be so obviously absurd, that any Governor who should have attempted it, would have been considered as deserving a straight jacket. Yet the power conferred upon the Executive of any State, by the words here used, is precisely that conferred upon the President, by the same words, in the case to which I have before referred.

So, too, the members of the House of Representatives are directed by this constitution to be chosen for two years. Biennially, then, all the seats in that House are made vacant by the constitution itself. Here, then, are actual vacancies in established offices, that have been once filled. But no Governor of any State has ever felt himself authorized to issue writs of election to fill even these vacancies. And why? Because all such vacancies being caused by the constitution itself, were therefore foreseen and foreknown, and cannot properly be said to happen. Hence they are referred to the general rule, and not to the exception, which applies to casualties only.

Again: The constitution having provided a House of Representatives, next proceeds to provide a Senate, as the other branch of the Legislature. This is done by the third section of the same article. This section commences, as in the other case, by declaring of what number the Senate shall consist, and by whom, and for what term, the members shall be chosen. Having thus provided a full and complete Senate, the authors of the instrument, foreseeing that vacancies might occur during the term prescribed, in the seats once filled for that term, proceed, in the next paragraph of this section, to provide for supplying such vacancies, by these words, "if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies." Here, again, we have original vacancies in offices created by the constitution. To these vacancies no Governor of any State ever presumed to make any temporary appointment, because they were original vacancies, and therefore were not embraced by the words of this exception.

Here also are presented the cases of other vacancies, occurring after the place has been once filled, produced not by any casualty, but by the foreseen and foreknown efflux of time. Our journals show us two attempts by the Governors of States to supply vacancies of this sort.

One is the case of Mr. Johns, from Delaware; the other that of Mr. Lanman, from Connecticut. In both these cases, the seats were vacated by the efflux of the time for which their former incumbents had been elected. In each case the Legislature of the State had made an ineffectual effort to appoint a successor, but had failed, not being able to agree in a choice. After the adjournment of the Legislatures, the seats being still vacant, the Governors undertook to fill them by temporary appointments. But in both cases, upon the exhibition of the credentials granted to these gentlemen, the Senate refused to permit them to qualify, because the Governors of these States had no authority to make temporary appointments to such vacancies as these.

Here, then, is a second example of the occurrence of the same terms, where their meaning is not only obvious from the context, but has received the solemn and repeated sanctions of this body itself. This meaning, so fixed and ascertained, is found to be in exact accordance with the signification attached to the same words, in the former case. Then, who can doubt as to the meaning of the same terms when they next occur, in the clause to which I first adverted? Here, too, the framers of the constitution, having prescribed a rule for all appointments to all offices, and required that they should be made by the President, by and with the advice and consent of the Senate, foreseeing that vacancies might afterwards happen in these offices during the recess of the Senate, when the public exigencies might nevertheless require such vacancies to be filled up, wisely and providently gave to the President alone the power of filling up all such vacancies. But they had no more idea of giving to the President alone the power of creating offices during the recess of the Senate, than they had to give to the Executives of the different States power to issue writs of election to fill original vacancies in the House of Representatives, or to grant temporary appointments to supply such vacancies existing in the Senate.

Mr. President, let me present the subject to the Senate under another aspect. Whatever differences of opinion may exist as to the origin of our different offices, I think we must all agree that the power of the President is the same, in regard to appointments, to them all. The constitution, in authorizing him to nominate, and, by and with the advice and consent of the Senate, to appoint to all offices, draws no distinction in the mode of appointment to any; and his separate power over all vacancies which happen during the recess of the Senate is the same, no matter what may be the origin or nature of the vacant office. Then, if his power over all is the same in both cases, let us examine the different subjects to which this identical power may be applied, and perhaps we may so discover the nature of the power itself.

According to the opinion of some, there are three different species of offices referred to in the constitution: such as are created by statute—such as are created by the constitution itself—and such as, being established by the usages of nations, are merely recognised by the constitution. Most of our domestic executive offices are examples of the first kind; the Chief Justice, and his associates of the Supreme Court, are examples of the second; and ambassadors, other public ministers and consuls, are instances of the last. Now with respect to all offices of the first class, that is to say, offices created by statute, it is very obvious, that original vacancies in these can never occur during the recess of the Senate. Because, as these offices derive their existence from a statute, which statute can only be enacted during the session of the Senate, and as these offices when thus created must be vacant, all original vacancies in statutory offices must occur during the session, and not during the recess of the Senate. Consequently, the President can have no power to fill up such vacancies.

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There never has been but a single instance of an attempt by any President to fill up such vacancies during the recess of the Senate. This attempt was promptly met by the Senate, who, not content with rejecting the nominations afterwards made of the military officers who had been so appointed, referred the subject to a committee. Their report, presenting, as it does, a clear and sound exposition of this part of the constitution, and an able vindication of the violated rights of the Senate, received the confirmation of this body, whose views were afterwards assented to by the Executive, as we all know. Then, no doubt exists that the President alone has no authority to make an original appointment to any statutory office.

The offices of the judges of the Supreme Court are the only description of offices of the second kind. These offices are created by the constitution itself, and are thereby required to be filled up. Here then is the case not of potential, but of actual offices; not of possible offices that may or may not be required to be filled up, but of existing offices ordered by the constitution itself to be supplied with incumbents. Yet, President Washington, during whose term these offices were all so vacant, and thus continued for a long time, never thought that he possessed the power to fill them up, until after the enactment of the judiciary law; and did so then only by and with the advice and consent of the Senate first obtained.

Nor could he have done otherwise. For until the passage of this act of Congress, how could he know what number of judges to appoint—what would be their salaries—where they were to convene—what might be the duties required of them—or what the rule to regulate their process and proceeding—nay, by what other means could the court have been supplied with a clerk, a marshal, or any other ministerial officers, indispensably necessary to the proper performance of their functions? It would have been as absurd for the President to have made the appointment of judges before the enactment of this statute, as it would have been for the Governor of a State to have issued writs of election before the Legislature of such State had passed the laws necessary to give effect to that provision of the constitution which required the members of the House of Representatives to be chosen.

In aftertime, when none of these difficulties existed, and the number of the judges of the Supreme Court was increased, although the new judge, when duly appointed, like his associates, was in under the constitution, yet it was conceded on all hands that the office, although required by the constitution, was established by the law; and, therefore, becoming vacant during the session of the Senate, the President could not fill this vacancy during the recess, but must make the first appointment to it, only by and with the advice and consent of this body.

When we thus see that the President cannot make an original appointment to any office created either by statute or by the constitution, because the vacancies in such offices cannot properly be said to happen during the recess of the Senate, is it fair to argue that he has authority to make such appointments to the other class of offices which are established not by statute but by usage merely, and which are not required, but merely recognised by the constitution as of possible use? Does not every argument applicable to the case of the judges of the Supreme Court, apply *a fortiori* to these offices? Of how many ministers must the new mission consist—who and of what character shall be the *attachés* to the legation—what shall be the compensation allowed to any of the mission—and for what term may they hold their offices? All these are questions which must be decided before such appointments can properly be made; and the decision of each of these questions by the President alone is forbidden by the constitution in terms.

And here, Mr. President, I will offer a suggestion to the

Senate, which upon my mind has always had much influence. It is not more the object of this constitution to create and confer power, than it is to check and restrain the authorities which it grants. No important authority is thereby granted to any department of this Government, unless it is limited and guarded in its exercise, by some means or other. Speaking generally, the judiciary can establish no rule which the Legislature may not abrogate, can pronounce no decree which the Executive may not refuse to execute. The Executive can do no act, against which the judiciary may not relieve, which the Legislature may not annul, or to which they may not refuse to give effect. The Legislature itself can enact no law without the assent of the Executive, and which is not subject to the revision of the judiciary, whenever it comes in conflict with the constitution. And the States, in virtue of the rights reserved by them as parties to the original compact, may watch over and control the joint or several action of all and each of the departments of this Government, so as that none may pass beyond its prescribed limits. Now can any one believe, that in such a system, so intended and so contrived, it ever was designed to confer the vast power which has been exerted upon this occasion, (which, as I have shown, touches and influences our best and dearest interests,) to the uncontrolled discretion of the President alone? The plain language of the constitution (as I think I have now proved) repudiates any such idea; and if this language was even doubtful, the spirit which dictates every line of that instrument, ought to suffice to solve any such doubt.

I have heard a single case suggested, to which (as it seems to present a difficulty to the minds of some) I must beg leave to pay a little attention. I have heard it asked, if the President may not fill up any vacancy but one that happens during the recess of the Senate, what would be the condition of the country, if an office, which the public good requires to be filled immediately, should become vacant by death or otherwise, happening during the session of the Senate, and which event could not be made known to the President until after our adjournment? To this question I have several answers to give, either of which, to my mind, is quite satisfactory.

The first is, that it is an extreme case, which must be of very rare occurrence, and the very necessity of which, whenever it shall exist, may well excuse the President for acting upon it, even without any direct authority so to do. But we should be very cautious how we give assent to that species of argument, which would infer the legality of authority in ordinary cases, from mere silent acquiescence in its exercise, when under the pressure of extraordinary circumstances. I certainly would not censure any President for making a temporary appointment during the recess, in this supposed case, even if I thought he had no authority so to do, provided he laid such an appointment before the Senate afterwards. I have no idea, however, of having even necessary medicine administered to me for my daily bread; or of applying this hard law of State necessity, which will override the constitution itself, to such ordinary transactions as the case before us, in which this plea of immediate necessity cannot have the slightest application.

My second answer is, that, according to a fair construction of the constitution, the President, in my opinion, has authority given to him to fill up such a vacancy during the recess. Sir, as in all human transactions we can reason only from what we know, and know but little of facts except through evidence, we are generally constrained to substitute this evidence for the fact it tends to establish. It is this imperfection of our nature which often prevents us from regarding as facts what are not shown to us to be such, and obliges us to assert the truth of what is satisfactorily proven, although the fact so established may be most false. Hence, I think it fair to say that a vacancy, not

known to exist, does not exist for any of the purposes of the constitution; and when known, it does exist, and not until then, be that when it may. If any Senator should die during the session of the Legislature of the State he represented, but the fact of his death could not be communicated to that Legislature while it continued in session, I take it for granted that the Executive of the State might supply this vacancy by a temporary appointment. I say this, in the spirit of the constitution, whose obvious purpose it is to keep the seats in this House always filled by the Legislatures of the States here represented, where they have an opportunity to fill them, but by temporary appointments from the Executive of these States, in all cases where the Legislatures have had no such opportunity. And the parallel is perfect, I think, between the power of the Executive of a State in one case, and that of the President in the other.

Mr. President, I have now presented to the Senate my views of the constitution, so far as it applies to the matter before us. If I am right in these views, all must agree with me, that the power exercised by the President upon this occasion was without warrant, and therefore unlawful; that it is a manifest violation of the rights of the Senate; and if the act was done with that view, it is a flagrant usurpation of their constitutional powers. I feel very confident that no one here will controvert a single position I have stated. I have advanced nothing new, but have merely repeated the arguments which I urged here in 1826, during the discussion of the memorable Panama subject, when this identical question arose, and was fully examined. Upon that occasion, I was met by Senators of great ability, who, instead of controverting this construction of the constitution, sought to avoid it, by relying upon what they called the precedents. The same course may possibly be pursued again. It is proper, therefore, that I should present some suggestions to the Senate upon this subject also.

Sir, from the first moment I was capable of forming an opinion for myself upon any political question, until this hour, I have always raised my voice against that sort of argument, which, in a Government founded upon a written constitution, seeks to infer authority for the governors from their own practices. The argument (if indeed it deserves such a name) is not fair; for, while it claims the benefit of all affirmative cases, it allows no weight to those which are negative merely. The omission to exert any power for a century, although opportunities fit and proper for its exercise may have hourly occurred during all that time, weighs not as even the dust in the balance against its actual exertion in a single instance. The argument is dangerous, too, in the extreme. The smallest fissure unintentionally made in the constitution, during the darkest hour of some drowsy midnight session, to let in some pigmy case, too insignificant to attract or to merit attention, by the force of this argument, is soon widened and made a horribly yawning crevasse, through which a flood must one day rush in to deluge our fair land. Deeds done in moments of high party excitement, or during the hour of danger to the State, when the safety of the people is the supreme law, by the force of this argument become the parents of similar acts, in other and different times. It was thus the dictatorship was made perpetual in Rome; and the same means cannot fail, in time, to produce some such calamitous event here. It shall never have any force with me. Thus far, and no farther, am I willing to allow any weight to the argument founded upon precedents merely. When any of the provisions of the constitution are of doubtful import, and questions arising under such provisions have been fully and openly examined, so that the people have had a fair opportunity to understand their bearing and influence, the decision of all such questions, if afterwards acquiesced in generally, I shall be disposed to respect; not, however, as conferring power, but as

simply declaratory of the true construction of an ambiguous part of the constitution, under which constitution alone power can ever be properly claimed.

In this case there exists no occasion for these cautions and reservations. During the discussion of the Panama subject, we looked into all the precedents. Every case of any original appointment, made by a President during the recess of the Senate, from the first establishment of this Government to that day, was then laid before us, in a document that now remains on our files. Each of these cases was then carefully examined; and it is such an examination which justifies me, I think, in saying that not one of them can properly be considered as a precedent for that which we are now examining. It is true that a superficial examination of some of these cases may seem to justify a different opinion. But, if any one will take the trouble of tracing such cases to their origin, and will inform himself of the state of things existing at the time of their occurrence, I repeat, that not one of them will be found to apply here. I will not fatigue the Senate by a reference to these cases now: their true character and history was given in the debate upon the occasion referred to; and to that debate, now of record in your Register, I refer all those who may feel any wish to consult it. Our journals furnish us, however, with four cases, which have a bearing so direct upon the matter now before us, that I will take the liberty to state them.

The first of these occurred during the administration of Mr. Jefferson, who, during the recess of the Senate, undertook to make an original appointment of a minister to Russia; to which court we had not before sent any minister. The nomination of this minister was afterwards laid before the Senate when they convened, accompanied by a long letter of the President's, setting forth the reasons which had induced him to make such an appointment. The Senate considered the subject very maturely, it seems, and finally refused to give their consent to the appointment. This scheme was then abandoned; nor was it resumed for many years afterwards, until it was revived by Mr. Madison, acting then by and with the advice and consent of the Senate. I refer to this case, to show the idea then entertained by the Senate as to their right to be consulted by the President in all cases wherein it was proposed to establish new diplomatic relations with any nation with which none such had previously existed; and to show the acquiescence of the Executive in this determination.

The next case occurred in 1814, when, during the recess of the Senate, and "*flagrante bello*," President Madison sent three additional ministers, to unite in the negotiations at Ghent, with the two others previously appointed by him, by and with the advice and consent of the Senate. These appointments were laid before the Senate at their next session, when the exercise of this power by the President, during the recess of the Senate, called forth that able and eloquent protest against it, which was submitted by Mr. Gore, then a Senator from Massachusetts, and which I read to the Senate when I first addressed them. It is true, this protest was never acted upon definitively. But we all remember the state of things then existing; and the conduct of the Senate, in avoiding any decision of this matter at that time, manifests most distinctly what was the opinion then entertained. If the majority had even doubted, this protest would have been rejected at once. But, as its adoption would have been highly inexpedient at that crisis in our affairs, and its rejection would have been an abandonment of the constitutional rights of the Senate, they very prudently postponed the consideration of the subject.

Next comes the case of the new republics in South America. Every body knows what was the state of public sentiment upon this subject. Mr. Monroe, the President, was beset on all sides, and most earnestly importuned to comply with the wishes of these States, by sending minis-

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ters to them. But, although desirous to do so, he nevertheless steadily refused, until he had previously submitted the subject to Congress, and had obtained the assent of both Houses. Then, and not until then, did he despatch the ministers which were appointed by and with the advice and consent of the Senate.

Last is the case presented in 1826 by the Panama message. This is of too recent occurrence to require any comment. It will suffice to say, that the resolution then proposed, which was declaratory of the rights of the Senate, and denied the claim of President Adams to the power he therein asserted to be his, was laid upon our table by the vote of a bare majority of this body. But many of the members of that majority, in whose presence I now speak, declared at the time that they did not doubt the rights of the Senate to be such as was affirmed. As, however, the President, while asserting a contrary power, had expressly waived its exercise, and had submitted his nominations to the Senate for their advice, the question was so reduced (as they thought) to a mere abstraction, which, however proper to be discussed, it was not necessary then to decide.

After that time, no case has occurred within the knowledge of the Senate until the present. For, although Messrs. Crane and Offley, in 1828, received from President Adams a commission similar to this, yet that fact was cautiously concealed from the Senate. These ministers never reached Constantinople, and their appointment would not probably ever have been brought to light, unless it had been found expedient now to refer to it as a precedent to justify what was afterwards done by the present Executive. And here, sir, let me appeal to the candor of all those honorable Senators who thought and acted with me during the Panama discussion, to say, if they had known that President Adams had secretly instituted a mission to Turkey during the recess of the Senate, would they not have reprobated such an act, in as strong terms at least as any used in relation to his mere claim of such a power in the Panama case, where the exercise of the power asserted was expressly waived by him. For my part, I know I should have done so; and knowing this, I cannot reconcile it to myself to sit silent, when the same act has been done by another President. Whatever changes may have taken place in the Executive, the constitution remains the same; the rights and duties of the Senate remain the same; and I will always strive to preserve the one, and to fulfil the other.

The cases to which I have thus referred, spreading as they do over a period of twenty-five years now last past, ought to satisfy every one, I think, that the provisions of the constitution and the practice of the Government are in strict accordance. At all events, they must suffice to show, that even if other precedents could be found, much more apposite than any which exist, they cannot prove any uniform practice, any continuous chain of precedents, settling this question of power, which, therefore, we must consider as *res integra*, and decide by a reference to the constitution alone.

Mr. President, the arguments that have been urged in opposition to the opinion I so briefly expressed when I first made this motion, coming, too, from the quarter whence some of them proceed, have excited my surprise almost as much as the power, the exercise of which in this case they seek to justify. I must beg leave, therefore, to invite some attention to the most prominent of these arguments, which seem to me most awful "signs of the times."

An honorable Senator from Louisiana, [Mr. LIVINGSTON,] instead of controverting directly any proposition which I have advanced, tells us that the construction of the constitution for which I have contended is not so certain, but that wise and good men may well doubt as to its correctness; nay, even adopt a contrary opinion. He does

not say that such is his opinion, but satisfies himself with endeavoring to cast the shadow of his doubts upon mine; and then rebukes me for using the strong language I did in expressing it. Sir, if I could feel any of the doubts which this Senator has sought to generate, like him I might regret the use of strong phrases to express an opinion, of the correctness of which I did not feel assured; but, entertaining no such doubts, I have nothing to regret, nothing to explain, and nothing to take back.

And how, sir, is this supposed doubt produced? The Senator from Louisiana says that the constitution is susceptible of two different readings. One, that which I gave as I found it written, and the other this: "the President, during the recess of the Senate, shall have power to fill up all vacancies that may happen." According to this latter reading, he thinks it probable that the President would have the right to do that which he has done. Now, sir, from whence does this honorable Senator derive authority thus to dislocate the members of the sentence, and to re-arrange them according to his fancy? If he is not bound to read the instrument as it is written, he has the same power to amend it, by the substitution of new words, as by inverting the order in which the old words are found, so to give them a new sense. The gentleman cannot claim the merit even of originality for this invention. It is certainly as old as the days of Swift, in whose amusing "Tale of a Tub" we read that the same device was practised upon the testament there mentioned. The three brothers not being able to find the permission they desired, written therein *totidem verbis*, sought for it *totidem syllabis*; not finding it even then, they tried to make it out *totidem literis*; and it was only when they failed in this, too, that they found themselves under the necessity of changing the orthography. Had they lived in the present day, they might have saved themselves much trouble, by merely altering the name of what they wished, and bestowing upon it some new denomination.

Do not the Senate perceive what would be the effect of this new reading of the constitution, if, as the Senator from Louisiana would persuade us, it was permissible to adopt it? Read as it is written, and these words, "during the recess of the Senate," denote the time within which the vacancy must happen, which vacancy the President alone is authorized to fill up: but, according to this new reading, these words denote the time within which the President may exert the power of filling the vacancy, happen when it may. Then, the President would need but to wait until the Senate adjourns, and he would have authority to fill up all vacancies. Nay, should he graciously please to refer his appointments to the Senate afterwards, and they should reject them, instead of watching a fit occasion to renominate, the President might wait for the adjournment, and then reappoint the same individual; and so on, *toties quoties*, to the end of the chapter. A more summary method to divest the Senate of all authority, and to invest the President alone with complete power over all appointments, could not well be devised. Instinct informs the very brutes of their common danger, and of the quarter from whence it may be expected; and surely arguments such as this should put us upon our guard.

An honorable Senator from Maryland [Mr. SMITH] tells us that he has never doubted upon this point—that he has ever been of opinion, the President might institute what missions he pleases, without consulting the Senate or any body else—that he so said, and so voted, in the Panama case, and therefore shall so vote in this, which is precisely similar to that. This is all very true; and I bear my willing testimony to the perfect consistency of that honorable Senator in these cases. I wish I could prevail upon him, however, to convince my friend from Illinois, [Mr. KANE,] that these cases are precisely similar. It would relieve me very much if he would do so; for I



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feel sensibly the awkwardness of my present position, opposed on the one hand by those who opposed me in the Panama case, because this is the same question there presented; and opposed on the other by those with whom I then agreed, because this is not a similar case. It is not for me to reconcile such contrariant opinions. All I can do, is to oppose to the Senator from Maryland the argument urged in the Panama case, which I agree with him is precisely similar to this; and to endeavor to satisfy my friend from Illinois, that his distinctions constitute no difference between the principles involved in each.

In what, sir, is any difference to be found between the two cases? It is true, that was the mere assertion of a right to power, the exercise of which was waived at the very moment it was claimed; and this is the exertion of the same power then asserted merely. But surely this barren claim, waived when preferred, presents not so strong a case, as the actual exercise of the very power then waived. The two cases, although not similar in their facts, present the same question; and every argument applicable to the one, applies *a fortiori* to the other. The honorable Senator from Illinois, I am sure, will not say, that because the one set of ministers was to be sent to Panama, and the other to Constantinople, that this difference of their destination can constitute any distinction between the principles of the two cases. Nor will he say, that because one set of ministers were sent to a Congress of the ministers of several nations, and the other to a single nation only, that this mere matter of number can vary the question as to the constitutional right of the President to appoint either. In what, then, does the difference consist?

The honorable Senator from Illinois says, that, in the Panama case, the persons proposed to be despatched were to be public ministers; but the persons actually sent in this case were commissioners only. Does he mean to say that this mere change of appellation alters the thing named? The poet would tell him that "a rose by any other name would smell as sweet;" and I am sure he would not agree that his hat was not one, because many of his townsmen call it a *chapeau*. But see, sir, what a broad gate is here also hoisted, to let in the flood of Executive power and patronage. An act is forbidden when called by its true name; yet change but the name, and the same act at once becomes justifiable and proper. There might be some hope of an end to this, if those who seek to get power in this way, were constrained to tax their own invention for new names to denote old things, for as there must be some limit to human wit, "when the brains were out, the thing might die!" Unfortunately, however, the work is already done for them; and a Secretary of State has but to turn to the mere index of his *code diplomatique*, and he will there find a long list of the names of public functionaries, who have been employed by different potentates, at various times, which list may serve as a perennial fountain of power.

Let me give an example of the case with which this work may be done. The constitution authorizes the President, by and with the advice and consent of the Senate, to appoint ambassadors and other public ministers. It is desired, however, to appoint such without consulting the Senate, lest they may not be willing to establish any such offices. Turn to the code, and you may there find that the ambassador of the Pope is not distinguished *co nomine*, but is termed a legate. For, as an ambassador represents the person of his master, and as the sanctity and infallibility of his Holiness cannot be represented, he therefore cannot have what is commonly called an ambassador. To show, however, that this legate is in very truth the personal representative of his sovereign, he is sometimes styled a legate *a latere*, that is to say, he is supposed to be taken, like our imprudent mother Eve, from the side of his lord and master, and therefore may very properly be identified with him. So, too, if the Pope wishes to send a

minister plenipotentiary or other negotiator, to any of the Catholic princes, his beloved children, as it would be quite unseemly for the holy father (whose wishes must be commands to them) to send to them any officer whose very title imports negotiation, his minister upon such occasions is styled an *nuncio*, a mere messenger, deputed to bear the will of the father to these his dutiful children, which will, to be observed, needs but to be known. Now, as this republic is a mere artificial body; and as around and within it there are many who constantly distinguish the President as their "great father," it would not require much ingenuity to find out some similitude between his office and that of the Pope. Then, as the constitution says not one word about legates or nuncios, all that is necessary to attain the desired end, would be to fill the blank in the commission with such words; when, according to this argument of the Senator from Illinois, the President alone would so acquire power to do the very act which he is forbidden to do, if this blank was filled by the proper name.

[Here Mr. KANE interrupted Mr. TAZEWELL, observing he had not meant to say that the mere change of a name of any public minister would authorize the President to appoint one: but that he had said these commissioners were not public ministers at all. They were secret ministers or private agents, like those formerly sent to South America, or the persons frequently sent with despatches. The appointment of none of these had ever been submitted to the Senate, but was always made by the President alone, because such appointments were not specially provided for in the constitution.]

I thank the gentleman for this correction. I really had no idea that it was his purpose to draw a distinction between public and secret ministers. My impression was, that his distinction was run between public ministers and these commissioners, who were not supposed to be public ministers, because they were not so called; and I was about to show that the officers were the same, although their denomination was different. However, the Senator from Illinois has relieved me from this trouble. Let me then inquire, whether his actual argument is more conclusive than that which I had supposed him to have used.

And, first, sir, let me ask my friend from Illinois, if these commissioners were not public but secret ministers, according to his sense of these latter words, whence the President and Senate together, much less the President alone, can derive the right to appoint them? The constitution gives to the President the power to nominate, and, by and with the advice and consent of the Senate, to appoint, public ministers: but it would be as difficult, I believe, to find any authority in it to appoint secret ministers who should not be public ministers, as it would be to conceive the idea of a private agent, appointed to perform the public duty of negotiating a treaty, which, when ratified, is declared to be the supreme law of our land. I pray we may not confound the character of the minister with that of the duty conferred upon him, or with the mode in which he may be directed to perform his duty. Doubtless, under that provision of the constitution which authorizes the appointment of public ministers, the President, by and with the advice and consent of the Senate, may appoint such ministers secretly. They may be instructed to depart secretly. They may be accredited secretly. They may negotiate (as they generally do) secretly. Nay, they may conclude a secret treaty, which need not be made known until a fit occasion arises to give it the effect of a law by promulgation. In this sense, such ministers may properly be termed secret ministers; but they are nevertheless public ministers. Because they are the ministers of the public, commissioned by its Government, authorized to perform its business, and accountable to the public for all their acts and omissions under their commission. In one word, sir, they are public ministers

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secretly appointed, and with secret instructions, but they differ in nothing else from all other public ministers, inasmuch as their commissions are precisely the same in both cases. Any other idea than this would present a subject here of quite as much mirth as the comic scene of Sheridan, in which he describes a secret conference of two British ministers, in the presence and hearing of the sentinels at Tilbury fort, when one tells to the other as a profound secret what he declares the other knew before. A secret agent created by letters patent under the great seal, given to him to be shown, and addressed to all whom it may concern. This, sir, would far surpass the sarcastic irony of the author of "The Critic."

Let me not be misunderstood. I do not mean to doubt the power of the President to appoint secret agents when and how he pleases; nor do I mean to advance any claim on the part of the Senate to participate in the exercise of any such power. As a simple individual, I would humbly suggest to him, if I might be permitted so to do, that whenever he stands in need of secret agents who are really designed to be such, he had better abstain from putting his own name to the warrant given to them, and never permit it to be authenticated by the great seal. Such a proceeding may sometimes prove hazardous, and I think would not be very creditable to the nation whose seal it is. But as a Senator, I do claim for the Senate, in the language of the constitution, the right of advising and consenting to the appointment of any and every officer of the United States, no matter what may be his name, what his duties, or how he may be instructed to perform them. And it is only because secret agents are not officers of the United States, but the mere agents of the President, or of his Secretaries, or of his military or naval commanders, that I disclaim all participation in their appointment.

It is this distinction between officers of the Government, and the mere agents of its officers, which constitutes the striking difference between the cases referred to by the Senator from Illinois, and that now before us. In this case, these commissioners were officers of the United States—commissioned as such—authorized by that commission to pledge our faith and honor—entitled, as the bearers of our great seal, to be regarded every where as the representatives of the sovereignty whose emblem it is; and to claim all the immunities accorded by the public law to such representatives of any Power on earth. Whereas, your secret agents in South America, your bearers of despatches or newspapers, *et id omne genus*, never had any commission—had no authority to pledge your faith—were never trusted with your great seal—and had not a single privilege any where, which any other individual citizen might not equally well claim. In short, they were not officers of the United States, but the messengers (either special or general) of their officers. Sir, it mortifies me to hear the high functionaries of the nation degraded by a comparison with such gentry as these; and their secret commissions assimilated to the warrants of messengers, or the secret letters to spies. I know but one of these commissioners personally; but of him I will say, that the same lofty spirit which refused to bring his ship to Constantinople, unless with her ports triced up, her guns shown, and her flag and pennants all abroad, would have made him cast your parchment from him with scorn, if it had even been hinted that it was intended to constitute him any other than a public minister of his country, whose honor and whose interest he had so proudly sustained.

But, Mr. President, the question is not whether these commissioners were what the Senator from Illinois calls public ministers, but whether they were officers of the United States; for the President may not make an original appointment of any such officers, without the advice and consent of the Senate. To determine this question, you must look to their commission. This you find in the same

form with every other; and if you will but consider its effects and consequences, none can doubt that it constituted them officers of the United States. Suppose that the Grand Seigneur, after accrediting these commissioners, had sent them to the Seven Towers, must not every body admit that the honor of this nation would have obliged it to resent the insult offered to itself by such an indignity to its representatives, protected, as they would have been, by the public law? Or suppose that any of these commissioners had been bribed, or had been guilty of any other high crime against their faith and the duty confided to them. Does any one doubt that they might have been impeached? And yet, forsooth, they are not officers of the United States, but mere secret agents, like the bearers of despatches or newspapers, who, as we all know, receive as little consideration at home as they are entitled to expect abroad.

The honorable Senator from Maryland, notwithstanding he affirms this to be exactly like the Panama case, and therefore clear, yet endeavors to distinguish it a little, in order to make it clearer than that, if possible. He tells us that one of these commissioners, Mr. Rhind, was regularly appointed consul at Odessa, by the President, acting with the advice and consent of the Senate, given at our last session. That he being thus an officer of the United States, the President might charge him with whatever instructions might seem necessary, even to negotiate a treaty with Turkey. It is so common in this country (where the thirst for office is insatiable) to continue the titles of Governors of States, and militia officers, to those who have once filled such places, not only wherever they may be, but so long as they live, that I am not surprised the Senator from Maryland should feel disposed to enlarge this custom a little; especially when a barren name may be made the fruitful parent of so much executive power as he thus claims for it. Henceforward, we must not only say, I suppose, that once a consul and always a consul, but, also, that once a consul any where, and always a consul every where. Nay, if it be true that this consul to the Russian port of Odessa may, *virtute officii*, be metamorphosed by the mere instructions of the President, or rather of the Secretary of State, into a negotiator at Constantinople of a treaty with the Ottoman empire, it will be very difficult to find a limit to consular functions. Thus, that thing called a consul, the lowest in the diplomatic scale, without pay, power, or privilege, may be converted into the most important functionary the United States can have abroad. Sir, it would have been a subject worthy of Hogarth's pencil, I imagine, to have represented the interview between Mr. Rhind and the Reis Effendi, the proud representative of his haughty sovereign, if, when they first met to exchange their powers, the "christian dog" had presented to him a consular diploma to Odessa, as the equivalent of his full powers. It would gratify me much to hear from any body what would have been the state of the negotiation, if, *pendente lite*, the Russian autocrat had revoked Mr. Rhind's *exequatur*, and so terminated his functions as consul at Odessa. But suppose we might thus justify Mr. Rhind's appointment, what is to be said for Biddle? He was no consul to Odessa, nor any where else; nor did he bear any diplomatic authority, save what this commission conferred upon him. It is true that he bore, and gallantly bore, the commission of a post captain in the navy of the United States; but surely it will not be contended that a naval or military officer may, *virtute officii*, be transformed into a diplomatic functionary of the highest grade, by the mere instructions of a Secretary of State, or a simple order of the President alone. The officers, I am sure, ought to object to this; for if so little ceremony is necessary in the one case, as little would be requisite in its converse; and when naval officers may, by a word from the President, or his Secretaries, be converted into public

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ministers to negotiate treaties, the latter, by a process equally summary, may be made the commanders of our fleets and armies.

But the President himself has answered this argument. He did not suppose that orders and instructions alone would authorize consuls, post captains, or any body else, to make treaties. He knew well that a plenipotentiary commission was requisite, and therefore granted these "letters patent" for that very purpose. Nor will he, I should think, feel much obliged to the honorable Senator from Maryland, for the imputation necessarily implied in this argument, the sum and substance of which is, that meaning to negotiate a treaty with Turkey, and to conceal this his object from the Senate, the President nominated to them, as a mere consul to Odessa, him whom he had appointed a minister plenipotentiary for that purpose.

Mr. President, there is one more argument which I see I have to answer, and then I will have done with this part of the subject. The honorable Senator from Illinois (Mr. KANE) tells me that I come too late; that the Senate have already advised the ratification of the treaty; and, by so doing, have approved the appointment of the ministers who negotiated it. Therefore, I am now estopped to urge any objection to these appointments. For my particular emancipation from this supposed estoppel, I appeal to the knowledge of all my brethren of the Senate, who have heard my protestations, and witnessed my continual claim to the right which is now sought to be barred by this strange limitation. Nor can I permit this argument, as applied to the Senate, to pass unnoticed. As doctrine it is not correct, however certain it may be as fact.

I come too late. I stand here to vindicate the sanctity of the constitution which has been violated—to assert the high privileges of this body which have been infringed; and here, even here, in this its very hall, I am told by one of its honorable members, that I come too late! I know it, sir; I do come too late. "'Tis true; and pity 'tis, 'tis true." But it is only true as fact, and not as doctrine. I cannot undo what has been done, or prevent the wound that has been already inflicted—for this, I do come too late. But I do not come too late to warn those who sent me here, that their constitution has been violated. I do not come too late to satisfy those with whom I am here associated, that their chartered rights have been impaired. I do not come too late to heal those wounds which ought not to have been inflicted, or to strive to prevent the repetition of such injuries in future.

Nor does the estoppel which has been relied upon, constitute even a just technical objection to the assertion of the high privileges which I have proposed to maintain. There is no connexion between the ratification of a treaty, and the appointment of the persons commissioned to negotiate it, except what concerns the foreign State. To the Grand Seignior we need not, we must not say, that we ratify the treaty concluded with him, but deny the authority of the persons appointed by ourselves to negotiate it. It would be idle, nay, it would be base to do so; for he would hold up to us the "full power" granted to these negotiators by our own Chief Magistrate, under the sacred seal of our own nation. This, indeed, we are estopped to deny to him; nor would it comport with the character of our people, to suffer any other earthly sovereign to pass upon the question raised, as to its misuse. But here, at home, it seems somewhat paradoxical to say that we may not deny to ourselves that which it is affirmed by ourselves that ourselves have done. This would be a most extraordinary estoppel indeed.

Short as is our history, it nevertheless furnishes several examples of ministers who have exceeded their instructions, and of officers who have violated their orders. Reasons of policy have induced the Government to adopt some of these acts; and to justify others to foreign States. But, until now, it has never been supposed by any, that these

reasons of State policy were of sufficient force to preclude all inquiry into the breaches of our own laws, much less into the violations of our constitution itself. A treaty is ratified, no matter how or by whom concluded, whenever it is believed to be promotive of the public good. But if this ratification necessarily implies a justification of a violation of the constitution, in the appointment of the negotiators; and if by such ratification we are estopped to deny this, then, indeed, has the time come, when our opinion of the general welfare is the substitute for the requirements of the charter.

But how does this question come before us? An amendment to an appropriation bill is here proposed, the object of which amendment is to authorize the expenditure of more of the public revenue than was contemplated by the other House, where the bill originated. If this amendment obtains, the bill so amended must be sent back for the approval of the House of Representatives. When there, who will be hardy enough to affirm that these constitutional guardians of the money of the people are estopped from inquiring into the fitness of granting what may be asked, and of the mode in which the grant should be made? Such an affirmation would be carrying the claim of Executive power to an extent never before heard of. Yet it must be conceded on all hands, that the power of the Senate over this appropriation bill is precisely the same, neither greater nor less, than that of the other House. What then becomes of this doctrine of estoppels, urged upon the Senate to prevent the assertion of their constitutional rights?

Mr. President, I have now done with this part of the subject; and I will detain you but a few moments in examining the second question. In discussing this, I am obliged to concede, *gratia argumenti*, that the President, during the recess of the Senate, might lawfully have instituted this mission, by making these original appointments. Yet, granting this, I nevertheless contend that it was his bounden duty to have submitted to the Senate, at their next session, the temporary appointment of these ministers. I have not heard a single suggestion even whispered, in excuse, much less in justification of this omission, except the fact supposed by the honorable Senator from Illinois, which he must pardon me for saying, whether it may be as supposed or not, does not, in any way, alter the case. Nay, this solitary argument itself implies, that if the fact be not as is supposed, this omission has no defence.

My friend from Illinois says, and says very truly, that if the commission granted by the President to these ministers, on the 12th day of September, 1829, was properly granted, it would have continued in full force until the end of the next session of the Senate, that is to say, until the 31st of May, 1830; and this without the advice and consent of the Senate. He then argues that the treaty was concluded on the 7th of May, 1830, whereupon these ministers became *functi officii*, ceased to be the officers of the Government, and therefore it would have been quite idle and unnecessary for the President to have nominated them to the Senate.

Now, if all this should be granted, it constitutes no justification to the Executive, because it is obviously an afterthought that could not have occurred to them until long after the session of the Senate. If Washington and Constantinople, instead of being separated as they are by two seas, were connected by a railroad, along which the conveyance might be as rapid as between Liverpool and Manchester, the intelligence of any event occurring in the Turkish capital, on the 7th of May, could not be communicated much beyond the Western islands by the 31st of that month. Then the demand is of an impossibility, which would have us suppose that the Executive knew of the conclusion of this treaty, and therefore did not make the nominations of these ministers to the Senate during

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their last session. And the question is to be tried, not by the fact, but by their knowledge of it. I pray the Senate to notice the various and contradictory modes resorted to for enlarging the power of the Executive. If Mr. Rhind had died on the 7th of May, and it had been judged expedient to fill up the vacancy happening by his death, all agree that the President might properly have done so during the last recess. Because, although this event happened, it could not have been known here during the last session of the Senate. But if Mr. Rhind makes a treaty on the same day, this after-discovered fact, although equally unknown to the President when the Senate adjourned, is urged to justify him for not laying Mr. Rhind's appointment before the Senate at their last session, although this appointment was made here (and therefore well known) eight months before that session terminated.

Is it a fact, however, that this treaty was concluded on the 7th of May? It is true the instrument bears that date; but we all know that it could not have been then concluded. Because it is absolutely certain that two of the commissioners had not then reached Constantinople; and that, without their approbation, even the Turkish Government would not consent to consider the project as a treaty concluded. When then was it concluded? Certainly not so late as the 29th of May. Because we have on our files a letter of that date, written by one of these commissioners to another, urging many arguments to induce him to sign it. On the next day, (the 30th,) another commissioner writes to the Secretary of State, saying that he had that day signed the treaty; but there is no evidence before the Senate, showing when it was signed by his associates.

Suppose, however, that it was signed by all the commissioners on or before the 30th of May. The instruments were still to be exchanged, before the business of the negotiation could be concluded; and we have the strongest presumptive evidence that this was not done on that day, in the fact apparent upon our own journals, that the 30th of May last was Sunday. Now does any man believe that these ministers of a christian people would have thus publicly profaned the christian sabbath, at a Mahometan court, and under the view of all the ministers of the Powers of christendom there convened? I do not put this even upon the ground of their christian faith, but upon the ground of national pride and national honor, always involved in the conduct of the nation's ministers. My life upon it, there is one of these commissioners, who would have willingly suffered even impaling, before he would have so degraded himself and his country in the eyes of all christendom. But if this work was not completed on the 30th May, it could not have been done until the 31st; and on the morning of this day, our journals show that the Senate adjourned. Now, whether the exchange of the treaties, (if made on that day,) or the adjournment of the Senate, took place first, is a question which I will leave to be decided by those who can better calculate the difference of longitude, and who may know more of the etiquette of the Turkish court than I do. This is done the more readily, because I am satisfied that the work was not completed until the 1st of June. For I find a letter of that date addressed to the Secretary of State, enclosing a copy of the treaty, and giving the first intelligence of its conclusion; and I take it for granted that these commissioners would have lost no time in communicating to their Government the consummation of this tedious affair.

Let it be, however, that the treaty was concluded at any time gentlemen please. Did the ministers cease to be such the moment their work was done? Will the "salaries" proposed to be allowed to them cease at that time? Were they not entitled to the common privilege of a member of Congress, or even of a witness *eundo manendo et redeundo*? I pray, sir, that we may not continue to perplex ourselves, by confounding the officer with his duties.

These commissioners were ministers before they began to negotiate—they were ministers throughout the negotiation; and ministers they continued to be, at least while they remained at the Turkish court, whether engaged in performing the special service for which they were deputed, or otherwise. The immunities conferred upon them by the public law attach not to the duty to be performed, but the office created by the commission for its performance. The Sultan would have offended just as much against the law, by suffering indignity to be offered to any of these ministers after the treaty was concluded, as before; as much if the negotiation had never commenced, or been broken off, as if it had continued. But we know that these commissioners remained at Constantinople certainly until the 8th of June, for we have upon our files official letters of that date, written by them at that place. Then what becomes of this vindication, rested as it is upon unknown events, occurring at some doubtful period of time?

Mr. President, my strength is almost gone, and your patience must be at least as much exhausted, yet a few words more—I hope they may be the last with which I shall have occasion to trouble you. For many years have I watched the workings of this Government, and have seen it steadily advancing to that condition to which our most sagacious statesmen long ago predicted it must one day come. Occasional obstructions to its onward motion have sometimes cheered me with the hope that these predictions would not be verified. Nor will I ever part with this hope, while this body remains true to itself, and faithful to the States whose sovereignties are here represented. But what I have seen and heard of late, is not well calculated to cherish hope. The time is not far distant, nay, it is at hand, when the theoretic maxim of the British law will become a practical rule for the American people. The English jurists tell us that "the King can do no wrong," and soon may we expect to hear this fiction of the British Government transferred to ours, as a solemn truth affirmed of our President. I wish we may be able to introduce with this principle the corrective it finds in the Government from whence it is borrowed. There, although the King can do no wrong, his ministers are responsible for all the bad advice they give him.

In the instance before us, I am willing to believe that the President has not knowingly violated the constitution, or designed to impair the rights of the Senate, or desired to usurp for himself the entire and absolute control over all appointments, although such certainly is the effect of his acts. In the mode in which business of this kind is done, as we all know, many circumstances may have existed, to absolve the President from all design to exert any such power as has been here put in practice, in order to produce such effects. But what must we say of his ministers, the bounden duty of some of whom it is, to present to him the facts as they know them to be. Of his cabinet, four were members of this body during the memorable Panama discussion. One of them (the Secretary of the Navy) was the mover of the resolution declaratory of our rights, and denying to the President the power then claimed, and here exercised. Another of them (the Secretary of State) stood by my side in that debate, the able advocate of those rights, eloquently denouncing the claim of power then preferred, as but a part of a long settled system covertly to increase the influence and patronage of the Executive. And all four united with me in the vote given upon that occasion. Surrounded by such advisers, if no voice was raised to admonish him, if no friendly caution was given to him by any of those whose opinion upon this subject was so well known, and one of whom had in his own office a full representation of all the facts existing in the case, it ought not to be matter of much astonishment, if the President should have regarded it as one of common occurrence; and the

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omission to lay the appointments before the Senate at their next session may possibly have been accidental. I know not how this matter stands; but this I know, that if such a representation had ever been made to the Senate, I should never have been heard to censure mere oversights, or acts of any kind unconsciously done. When honorable Senators, however, instead of excusing, seek to justify what has been done, and this too by such arguments as we have heard, which, if sound, must suffice to perpetuate this power, the case assumes a very different aspect indeed. Under this different aspect I have been obliged to consider it.

For thus regarding it, I know well what I am to encounter. I have seen the writing on the wall. I know the finger by which it is inscribed. It needs no Daniel to interpret it. But, sir, it is my consolation to know, that the balance in which I shall be weighed, will never be held by any executive officer of this Government, be he whom he may. They who sent me here, placed me as a warder on the watch-tower, to warn of the approach of danger. I will not play the shepherd's boy, and cry out when there is none. But when the danger stands confessed before me, come it in what "questionable shape" it may, I will do my duty. That duty is now done, sir; to what end, the judgment of the Senate will decide.

Mr. KANE replied briefly to some of the remarks of Mr. TAZEWELL.

Mr. WOODBURY next rose, and observed, that in some respects his position resembled the gentleman's from New Jersey; but in certain particulars they differed. He [Mr. W.] had not spoken at all, nor voted on the resolution of 1826, so as to commit himself on the power of the President to make known public and regular diplomatic appointments without the advice and consent of the Senate. But on that subject he then formed decisive opinions, which still remained unchanged; and if that resolution had not been laid upon the table, contrary to his vote, he would have placed those opinions on our legislative records. He should not now, for a moment, hesitate to avow that those opinions, so far as regarded the construction of the constitution on that point, went the whole length of what had been detailed by the Senator from Virginia. On that point, however much they might differ on other points, he agreed with him throughout, entirely.

Mr. W. said he never supposed that the enumeration of ministers, judges, &c. in the constitution gave power to appoint any particular minister or judge, till a law or a specific appropriation created a particular office; and that then the President's power, as well as our own in such cases, commenced, we acting with him as to future vacancies during the session of Congress, and he acting alone, if he chooses, as to vacancies during our recess, so as to appoint until the close of the ensuing session. This was the fair and safe construction. He should not now dwell on the exceptions to this general principle, nor upon its various limitations. The hour was too late, and the question too irrelevant to the real inquiry now before the Senate. That inquiry was, in his opinion, a very narrow one. If the House would spare him a minute on the true question in issue, he would endeavor to satisfy them that the difficulty was wholly one of form rather than substance, and that the amendment of his friend from Illinois would, he hoped, remove even the objection of form.

What was the fear of the gentleman from Virginia? That by voting for the present appropriation he might seem to sanction what in 1826 he and all of us, who then thought with him, gloried in having disapproved. We all still disapprove of it. But he [Mr. TAZEWELL] distinctly admitted that a compensation ought to be made to the agents to an extent equivalent to their services, though their appointments may have been irregular from mistake, precedent, or otherwise. True, he wished it to

originate in the other House, and to be included in a separate bill. Now, it was well known, the treaty was not ratified, and the business concluded, till after the appropriation bill was reported in the other House; and in such case it was usual to insert claims here. It was also proper and manly on the part of the Secretary of State, though censured for it, to recommend the compensation to the old agents under the last administration as well as to the new agents. What then is the whole difference, conceding, a moment, for argument, that these appointments were irregular? Is it whether you shall pay them in a separate bill, or in the general appropriation bill? And this also at a late period in our session, when a separate bill could not probably be originated and passed in the usual course of business. It resolves itself then entirely into a question of form. Every advantage to be obtained by a separate bill can be secured here. We can here, as in such a bill, limit the sum to the supposed benefit derived to the public from the services of each agent, or leave it to be apportioned by the President. If, in our opinion, the services of any have been already amply paid, or were useless to the country, we can here exclude them. But all must admit, that, so far as the country has profited by their exertions, so far they ought in some way to be paid, whether their appointments were regular or irregular. In making the compensation, whether in this or a separate bill, we could equally avoid the other difficulty of using language calculated to express an opinion on the irregularity of their appointments. He was anxious as any body to avoid inconsistency, and to relieve any gentleman from any set of words such as charges, outfits, &c., which might seem to imply an expressed opinion that these agents were regular charges, commissioners, or any other class, by whatever name, of public or accredited diplomatic officers. On this point he deemed it embarrassing and unnecessary to go into any subtle investigations. The present administration had only followed the steps of the past one in sending agents to Constantinople. If a part of the Senate deemed them legal and constitutional appointments of public regular agents, as made to fill vacancies, they could vote for the appropriation on that ground. If a portion deemed them not such appointments, but private informal agents, equally legal and equally constitutional, they would vote for the appropriation on that ground. If others deemed them to belong to neither of these classes, they might vote for it on the broad ground before mentioned, and which the Senator from Virginia concedes, that is, having reaped advantages from their services, they are willing to bestow on them a *quid pro quo*, or a *quantum meruit*. As the amendment offered by his friend on the right, left no implication of a specific opinion on these questions, it was the most preferable, and should receive his support. It avoided a useless controversy; it relinquished no power on the part of the Senate, and opened no door to danger or encroachment.

For himself, he always believed that the President could appoint secret, informal, diplomatic agents, without our advice, and pay them out of the contingent fund. By this amendment, we only increased that fund to meet this new and unusual burden of the Turkish negotiation by such agents; and one which all, probably, admitted to be a just burden on the treasury in some shape or other. Over that fund, to its whole extent, the President alone exercises a sound discretion, both as to the individuals employed, and the amount of their salaries, whether \$500 or \$5,000 a year. Both Houses of Congress have deemed it wise and constitutional to place in his hands, and his hands alone, a power to appoint and expend to that extent; and if he exceeds it, no remuneration can be had without our subsequent approbation. The agents thus employed have no fixed public diplomatic powers. They are not impeachable as officers. They cannot commit either House of Congress



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without our subsequent assent. They can make no treaties without our subsequent consent. It is the President and Senate who make treaties, who give them validity, and not the draughtsmen or signers, whether they be regular or irregular agents. No danger could accrue from this view of Executive powers. The doings of agents, appointed without our advice, in making treaties, whether in the session or during the recess of Congress, may or may not be approved by us in the ratification, and may or may not be approved by the two Houses of Congress in subsequent appropriations to carry the treaties into effect. In the case of the Florida treaty, made by Mr. Adams, without his nomination being submitted to the Senate, we not only approved the treaty, but Congress afterwards appropriated five millions to carry it into effect. The late Austrian treaty was made in the same way by the present Secretary of State; and, if either of the agents on the part of the United States had a commission under the broad seal or the narrow seal, they had it without consulting the Senate. It was not intended, any more than in this case, to give them the character of public diplomatic officers, but of mere temporary agents with special powers. Their additional pay likewise, if they had any, was either from the secret or from the contingent funds.

He differed, however, from his friends who had spoken on the same side, as to the imperative effect of the ratification of the treaty by us, as imposing an obligation to pay the agents at all events. We ratified the treaty, because we deemed it beneficial: certainly that was his opinion. But the agents, or some of them, might appear to us to have been so little useful in the negotiation, as to justify no compensation on the ground of a *quantum meruit*. When the President employed and paid them out of the contingent fund, he alone exercised a discretion on this, and went into those considerations, unless he had before made with them specific contracts as to the amount of their compensation. But, when we were called on to appropriate anew, and in a specific or general form, for this object, we had the power to affix any reasonable limits to that appropriation. Here we proposed to add to the general contingent fund only fifteen thousand dollars, leaving the President, within that sum, to exercise his own discretion, and make such discriminations as justice required.

Mr. LIVINGSTON rose to address the Senate, but, after a few words, he gave way for a motion to adjourn; and The Senate adjourned.

WEDNESDAY, FEBRUARY 23.

## THE TURKISH COMMISSION.

The Senate having again resumed the consideration of the amendment proposed to the general appropriation bill by Mr. TAZEWELL,

Mr. LIVINGSTON rose, and addressed the Senate as follows:

A just diffidence of my power to impress upon others the force of considerations which guide me in forming my own opinion, has generally induced me to be silent, when in any debate others had expressed the reasons which were to govern my vote. My rising to address you now, Mr. President, is no departure from this rule. Dissenting in every particular from the doctrines on which a most grave accusation has been made; feeling it a duty to refute that accusation, on grounds and for reasons which have not been expressed by others, I must reluctantly ask the attention of the Senate while I endeavor to perform this duty.

Sir, the Senator from Virginia has, in the most unqualified terms, characterized this whole transaction, from its very outset to its conclusion, as a lawless, unconstitutional usurpation of power on the part of the President; and the acquiescence in it which he says will be involved in

our adoption of the amendment, a participation in the acts thus denounced, aggravated by a base surrender of rights, which are vested in us by the constitution. I repeat, sir, literally, the charge. He has added, that it is gross, palpable, to be justified by no construction of the letter of the constitution, nor excused by its spirit; that, with respect to the President, the act is done, the sacrifice is consummated; but that, on our parts, we may yet avoid the sacrilegious guilt of violating the constitution, by voting with him for striking out the appropriation. We have yet this resource. But, in a tone at once admonitory and menacing, we are told that there is no other escape; we stand on the brink; another step, and we are lost, engulfed, with the President and his advisers, in the same abyss of political profligacy and ruin.

Sir, I wish for no escape. If I desired one, I could find it behind the reasoning of the Senator himself. He moves to strike out the appropriation, because it provides for an outfit, and because it calls those who made the treaty commissioners. Yet he is willing to pay the whole sum—ay! and a much greater, as much as any member may deem a sufficient remuneration; he will be not only just, but generous. Why will he do this? Why, as a guardian of the public treasure as well as of the constitution—why will he open it to these persons? Undoubtedly, because he thinks they have rendered a service; but in what manner? in what capacity? Clearly, in no other than that of making a treaty, and as commissioners. Then, I ask, sir, is he not willing to sacrifice the substance for the form? Would not a provision for this payment, in any manner that you could give it, sanction the service by which it was earned? But the “rose” which, in another part of the gentleman’s argument, he said would “smell as sweet by any other name,” here loses its fragrance. Change its denomination, call it compensation for services, and its perfume is delicious; alter the name to outfit and salary, its odor is insupportable, and taints the very air; every constitutional nerve of the Senator is shocked by it. Now, sir, if I wished to escape the question, if I thought the denunciation well supported, I might, as I said, adopt this reasoning, and, by voting for the amendment offered by the Senator from Illinois, [Mr. KANE,] which avoids the objectionable terms, leave it in doubt whether I did not assent to the doctrine of the Senator from Virginia. But, sir, I am not disposed to avail myself of such a subterfuge. Whenever I have formed an opinion, and am properly called on by duty to express it, I will do it fearlessly, independently, as becomes a member of this august body, frankly to my fellow-Senators, explicitly to the nation; but, at the same time, with a proper deference and respect for the opinions of those with whom I have the misfortune to differ. In this spirit, sir, I will proceed to discuss the serious questions that have been raised by the Senator from Virginia, and to repel, as best I may, the charge of violating the constitution, and surrendering the rights of the body to which I have the honor to belong.

I do not, myself, deal in professions of attachment to the constitution—when made by others, I believe them, unless their conduct, or character, has given me reason to doubt their sincerity. In the case of the Senator from Virginia, no one who knows him can have such a doubt; but whilst the fullest confidence is felt that he is persuaded of the truth of all he utters, and while he is convinced that the construction he puts on the constitution is the true one; while he believes that those who think differently are in the wrong, might not a slight suspicion that he himself is deceived; that his judgment, strong as it naturally is, and invigorated as it has been by study and reflection, that even such a judgment might sometimes err? and would not this reflection, had it occurred, have led him to think that this might be one of those rare occasions, and have induced him to qualify by some expression of a possibility that his reasoning might be ill-founded, the

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sweeping charges of usurpation, and lawless and unconstitutional acts by the President, of dereliction of duty in those who support them? and would not that reflection also have inclined him to avoid asserting that these violations were gross, open, palpable, such as the plainest understanding must perceive—thus leaving to those who cannot read the constitution as he does, not even the excuse of error and ignorance to cover their aberrations? Sir, this charge goes out to the nation, to the world, under the authority of the Senator's name—it has already gone forth; party spirit has already seized it; detraction has repeated it; simple credulity may believe it; and the nation is given to understand that its first magistrate has deliberately committed an open violation of the constitution and his duty, or, as was insinuated, has been ignorantly made the instrument of others in its performance; and that this body, the Senate of the United States, is ready, unless they listen to the warning voice of the Senator from Virginia, to aid in the parricidal act. Now, sir, how if this charge should be unsupported? How if it should be void of the slightest foundation? How if the letter of the constitution, as well as its spirit, should sanction the reprobated act? How if it should be proved to have been the uniform course of the Government from its institution, pursued by the practice of Washington, Jefferson, Adams, Monroe, by every President of every party; sanctioned by every Senate, unimpeached by any House of Representatives—called in question by no vigilant guardian of the constitution until the present day? How then! What then will this nation, the intelligent nation to whom this charge is made, what will they think—what will be their verdict? To them, sir, I appeal; to their sentence I am willing to submit. Sir, I do not arrogate to myself to be one of the chosen few to whose charge the defence of the constitution is committed; or that my construction of that instrument is the only orthodox faith. All those who surround me, have an equal duty to perform in this respect; all of them are, no doubt, equally willing, and most of them more able, to perform it than myself; but, while I yield to their equal right and superior ability, I must resist the claim any one may set up, either directly or by implication, to the title of exclusive defender of the constitution. I have said that I do not deal in professions; but when the measures my sense of duty obliges me to support, are stigmatized by the terms we have just heard, I must be permitted to say that I yield to no man in attachment to the charter of our fundamental laws, to the Union of which it is the bond, and to those rights of its separate members, which are not surrendered by it to the National Government. I am old enough to have watched the progress of its formation, to have witnessed the first moments of its existence, and was one of those who hailed its first appearance as the harbinger of that prosperity which it has so gloriously realized. I saw it, sir, in its cradle, marked its progress with no inattentive eye; and the first period of my political life was employed in resisting inroads which false constructions, in high party times, made on its provisions. I belonged, and faithfully adhered, to the party which opposed (for a period unsuccessfully) acts which we thought infractions of that instrument. My profession of faith has not heretofore, and is not now, altered—it never will be. But that faith does not oblige me to array myself with any one, whatever may be my opinion of his patriotism and zeal, in opposition to the exercise of a power that I think is fairly conferred by the constitution to one branch of the Government, or contend for it in favor of another not entitled to it, though I should myself be a member of that latter branch.

What are the facts which have created this sudden explosion? The rapid growth of the Russian establishments on the Black Sea, and the consequent increase of commerce in that quarter, had for some years past made an

arrangement desirable with the Sultan, who held the keys of the narrow inlet, through which alone an entrance into this sea could be had. The immediate predecessor of the present Chief Magistrate had appointed successively the two commanders of our squadron in the Mediterranean, together with Mr. Offley, our consul at Smyrna, commissioners to effect this object. They were furnished with full powers, commissioned under the great seal, and instructed to make a treaty to secure this object. This was designed to be a secret mission; it was never communicated to the Senate, nor was the appointment of the commissioners submitted to them for confirmation; however, from some cause, not perfectly understood, but, as many believe, from too great publicity given to the mission, it totally failed; and this failure became known soon after Mr. Adams went out of office. The object increasing every day in importance, it very early attracted the attention of the present administration; and to avoid the interference of other nations, and better to secure the secrecy of the operation, Mr. Rhind was appointed consul to Odesa, but was furnished with full powers, directed jointly and severally to him, Commodore Biddle, and Mr. Offley; he was directed, under the cover of his consular appointment, to proceed to Constantinople, and there negotiate for the free entrance into the Black Sea; he went there, his object was not suspected, and on the 7th May last he concluded a treaty, which was signed by Messrs. Offley and Biddle, they having arrived in the interval, on the day before the adjournment of the Senate at its last session. This last commission, like the preceding appointments, by Mr. Adams, was made in the recess of the Senate; and, as had been the case in these instances, the names of the commissioners were not submitted to the Senate for confirmation. These are the facts, and on them is founded the accusation we have heard.

Let us remember that this is not a question which concerns the infringement of any State right, that it is not one of reserved or conceded powers, but merely regards the mode of exercising one confessedly given to the General Government—that of treating in the name of all the States with a foreign nation.

I will examine, in order, the positions on which these serious charges are founded. The first of them (although I do not think it applicable to the present case) is, that the President has no power to appoint a public minister during the recess of the Senate, to any Power where no such minister had previously existed; or even if such mission had previously existed, unless the vacancy occurred after the adjournment of the Senate. To this point I accede in none of its parts. But if I should err on this subject, I hope to show that the establishment of this construction will not justify the charge that is founded upon it.

I construe the constitution as I would any other written instrument, by its words, where they are explicit—where there is doubt, by the context—by the plain object of its framers, by a view of the evils it was intended to remedy, the circumstances under which it was made, and the contemporaneous construction and uniform practice under it. To adhere to its letter, without these aids, would sometimes defeat the powers evidently intended to be vested by it—sometimes give it greater than were contemplated. For instance, the President is directed to “take care that the laws be faithfully executed.” Take this literally, without any aid from the rules of construction I have laid down, and you give him all power but that of legislation. In the article next preceding, it is said that “no State shall enter into any compact or agreement with another State, without the consent of Congress.” A literal construction of which would prevent a settlement of disputed boundaries: or any other arrangement which mutual accommodation, for the acknowledgment of deeds, the arrest of fugitives, or similar objects, might require. Let us examine the position by these rules.

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The constitution directs that "the President shall nominate, and, by and with the advice and consent of the Senate, appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointment is not hereinafter otherwise provided for, and which shall be established by law." It then gives power to Congress to vest the appointment of such inferior officers as they think proper, in the President alone. Here the appointing power is complete. But as this power was to be exercised by the President, subject to the approbation of the Senate, and as the sessions of that body were not permanent, it was foreseen that great inconvenience would result if all vacancies were to remain open during the recess. What was the natural remedy? To give the temporary appointment to the President, subject in the usual manner to the confirmation of the Senate, when it should meet. And to afford them time for deliberation, the duration of the temporary appointment was extended to the end of their session. The evil to be remedied by this proviso was the vacancy of an office occurring at a time when it was impossible for the President to submit a nomination to the Senate. Such would be the case of an officer dying during the recess, or resigning on the day of our adjournment; or of a minister dying in a distant country at a time during the session when it would be impossible to know the event before the adjournment. If, in these two last cases, the office were to remain vacant until the meeting of Congress, the remedy in the proviso would not be commensurate to the evil it was intended to avoid. There would be vacancies when it was the evident intention of the instrument there should be none. I must not be understood as saying that an inconvenience attending any construction is sufficient to show it to be false, or that to be the true reading which avoids it. Where the words are express—where the intention is evident, however inconvenient, they must be obeyed. But, where the words will admit of an interpretation which avoids such an evil as must have been foreseen, and cannot be supposed to be left unprovided for, there the rules of construction to which I advert will apply. Before we consider the words of the constitution, let us see the consequences that would result from an adherence to what is perhaps their literal meaning. The collector of the port of New York dies on the day before the adjournment. The vacancy cannot be filled until the December following. The collection of one-third of the revenue of the United States must be left in irresponsable hands. The commander of a military district in time of war dies—his loss cannot be supplied—the most important operations on which the safety of the country depends must be stopped. In the distant operations of your navy, the same or a greater risk and inconvenience occurs. At the moment of concluding a commercial arrangement, by which immense advantages are to be secured, or a treaty of peace, which is to save the country perhaps from devastation, your plenipotentiary dies during the session of Congress, but before the President is apprised of it. He cannot supply his place: the commercial advantages are lost—the war must rage—the country must be devastated: because, according to the literal construction of the clause, the vacancy happened during the session, not in the recess. The President who should presume to remedy these evils, would be guilty of a "lawless usurpation of unconstitutional power." And the zealous guardians of our rights on this floor would denounce all those who might presume to think differently, as men ready to lay the rights of the body to which they belong at the feet of Executive power. These, sir, and a hundred other inconveniences which might be stated, are not only possible, but probable, but certain and inevitable, and must occur during the long series of ages in which it is our unanimous prayer that our constitution may live. Are they not great? Must they not have been fore-

seen? Could they have escaped the wisdom and deep foresight of the sages who framed the constitution? Have they not provided for them? My belief is that they have, by the section in question. The President by it is authorized to "fill up all vacancies that may happen during the recess of the Senate." Now take this literally, and he may fill up vacancies in the Senate itself—and it appears, from the Federalist, that this was once seriously contended for. But this cannot be the true construction, though no one can deny that it is the literal one. Why? Because it was evidently the intention of this section to limit it to the case of officers. There are, then, reasons which justify a departure from the literal meaning of the section in this instance. Are there none in the case before us? I think they have been already sufficiently pointed out. Another, perhaps, of some, though I do not think of conclusive weight, is, that the omission of a comma, which was probably inserted in the draught after the word happen, may have given rise to all the ambiguity in the phrase. In that case, the period described, that is, the recess of the Senate, would relate to the antecedent power of filling the vacancy, not to the occurrence of the event by which it was created. My exposition of this clause, therefore, is, that it permits the President to fill all vacancies in any of the enumerated offices, whether they occur during the recess, or even during the session of the Senate, if the vacancy was not known to him, or could not be supplied during the session; but that he would be guilty of a breach of duty if he appointed them during the session, and did not send in the nomination to the Senate.

It was said on this subject, that no President had ever dared to fill up an original vacancy in an office after the end of the session in which the law which created the office had passed. Whether it was the want of courage, or of inclination, that prevented the performance of an improper act, I cannot say. But as it is admitted that the act was not done, perhaps it might be quite proper to attribute it to the latter cause. But the fact, if it be one, strongly exemplifies my construction. Any office, first created by law, must be vacant at the moment the law is approved by the President. That must necessarily be during the session of the Senate. He is, therefore, bound to fill it; because the vacancy not only happens during the session, but it also comes to his knowledge at that period. But suppose a law to be passed, requiring the appointment of certain officers, which is not to take effect until a distant period, or that is dependent on an uncertain event, and at that time the Senate should not be in session, can it be doubted that the President would be authorized to make a temporary appointment to fill such original vacancy? If he could, by what authority? Not the law surely; for that cannot alter a constitutional right of the Senate, unless the office be an inferior one, and the right to fill it without the concurrence of the Senate be expressly given by the law: it must be then by the liberal construction of the section, which I contend is the true construction. On which subject, sir, permit me to state a manifest difference in the rules for interpreting the constitution. When the question is, whether a certain power is granted by it to the General Government, or reserved to the States—in that case, whenever there is reasonable doubt, the power ought not to be exercised. But where the States have confessedly parted with, and do not claim the power—where it is plainly their object and their interest that it should be exercised by the Federal Government, and the only question is, by what branch, and in what manner—then the true rule of interpretation is that which will give effect to the power, rather than that which would destroy it. In the case of interfering claims between the States individually and their federal head, the mind must be convinced that the power in question was intended to be granted, before it can come to the conclusion that it belongs to the General Government. Where there is doubt,

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there can be no such conclusion. Therefore, the power must rest as it was—that is, with the State Government. But in the question, how a power confessedly granted is to be exercised—then such absolute certainty is not required. The first duty of the expositor is to adopt some conclusion that will give effect to the declared and confessed grant of power. And although there may be doubts as to the agency by which the intent is to be executed, yet they must be weighed, and the decision made according to the preponderance of the reasons in favor of either of the departments claiming it. Thus, in the present instance, it is the undenied and express intent of the constitution that offices should be filled by the President, with the advice and consent of the Senate when they were in session, and by a temporary appointment in the recess. The evident intent, then, is that there shall be no vacancy. The words, however, give rise to two constructions. By the one, this evident intent will be carried into effect. By adopting it, there will be no vacancy for a longer period than elapses before it comes to the knowledge of the President. By the other, in many most important cases this intent will be defeated; the office must remain vacant for the inconvenient, and sometimes exceedingly injurious period of eight or nine months. Which of these constructions are we to adopt? I should incline to think the former would not only be the best but the safest: for not a single inconvenience, that I have been able to discover, or that has been suggested, will attend the appointment to fill a vacancy which occurs during the session, but which is unknown to the President until the recess—not a single inconvenience that will not occur if the vacancy happens in the recess: while the necessity for filling it is equally evident in both cases. Gentlemen, for whose judgment I have the highest respect, I know, differ from me on this point; and it is probable they may be right. I express my opinion merely because the occasion calls for it, and my constituents and the public have a right, in the station I occupy, to understand it. But although it lays at the bottom of the argument which has been used by the Senator from Virginia, I do not think, as I hope to show, that it is the point on which the present question is to be decided.

The reasoning I have hitherto used, is applicable to the appointment of all officers, as well ministers to foreign Powers as others; but there are reasons peculiar to the former, which place the authority to commission them during the recess on a different ground. The office of minister to a foreign Power derives its authority from the law of nations. The intercourse which the political relation of different States towards each in modern times requires, their mutual wants, and the comity which exists between them, render the frequent, and generally the permanent, intervention of agents from one to the other necessary. Every civilized nation must necessarily have the power of appointing and receiving such agents vested in some one or more of its departments. In the constitution of the United States this power is divided: the President alone has the right to receive foreign ministers, and, by the power to make treaties, subject to the assent of the Senate, that of making these treaties himself, or, as a necessary consequence, that of appointing the persons by whom they are to be made. No law, therefore, was necessary to give effect to the exercise of this function. The moment the first President entered into office, he had the right to perform it, either by himself, or by others.

The laws of nations, however, to which I have referred, make a distinction, as I hope abundantly to prove, between two classes of agents by whom the diplomatic intercourse may be carried on; it distinguishes between public ministers and private agents. In the first are included ambassadors, envoys, ordinary and extraordinary, ministers resident, *chargés d'affaires*, consuls, &c. In the second class there can be no gradation of rank, but the powers may be as extensive as those given to any of the others. The

power to make treaties, then, includes that of appointing agents, as well of the one as of the other class. But the constitution has placed a limitation on the power of appointing those of the first class; and having given none to that of the second, the President has it without restriction. In this branch of the argument, however, our inquiry relates to the public ministers only; and the question is, whether the President has a right to appoint such ministers during the recess of the Senate, either to a Power with whom we before had sent no such minister, or to fill a vacancy in the mission to a country where we before had a minister, if that vacancy should have occurred during the session of the Senate. This is here the sole question; for I admit, that, in all cases of appointment to public foreign missions, made in the recess, the President is bound to submit the nomination to the Senate at its next meeting. This is my reasoning on that subject. Having the power to make treaties, afterwards to be submitted to the Senate, the President has the right to select the nation with whom such treaties are to be made, and the time most favorable for making them. That time may occur during the recess of the Senate, and he therefore has the power to fill the original vacancy by the appointment of a public minister; but, in that case, if the negotiation is carried on by such minister, he must send in the nomination to the Senate at some time during their session, if he wishes the appointment to continue beyond that period. If, on the contrary, he finds no occasion for extending the powers of the minister beyond the time at which his commission would expire by the constitutional limitation; if he knows, for example, that the treaty will be made at that time, or the negotiation will be broken off, he may, at his discretion, omit sending in the name for confirmation. He must do this, as he does all other discretionary acts, under his responsibility to the nation; but, in my opinion, he clearly has the power.

The error, as it appears to me, lies in considering the mission to each court as a separate and distinct office: whereas the office of ambassador or minister plenipotentiary is a general one, subject to the President's direction where he is to be sent. He is a minister to reside at such a place; an ambassador to go to such a sovereign. Suppose the constitution had, in express terms, said, the President shall have the power to appoint messengers to carry despatches to different courts—would the messenger to London, the one to Paris, or St. Petersburg, be several and distinct officers, or would the office be the substance, and the destination an accident, liable to be varied, without altering the character of the appointment? Again: if the President had been authorized to appoint justices of the peace for the District of Columbia, surely he might apportion them to the different cities; and their particular destination would not make the justice for one town an officer different in kind from the justice of another. The constitution puts the offices of public ministers precisely on the same footing: it does not limit the number, nor has any law made such limitation: as it now stands, and ever has stood, and must remain, until the Legislature shall declare how many officers of this description there shall be, it is necessarily a matter of sound discretion with the President to what courts the exigencies of the country require that a public resident minister should be sent. In case of a new mission, as his nomination may be rejected, either because the Senate think the mission inexpedient, or because they disapprove of the man, he will generally avoid making such appointments, without consulting the Senate by submitting the nomination, unless the exigency of the case requires it. And as to the existence of such necessity, he must stand upon his responsibility to the people; to be enforced, in case of an unwise exercise of the power, by their voice of disapprobation—a sufficient sanction to a man of character; and, in case of a corrupt exercise, by impeachment. And it must further be observed, that the

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two Houses have each a check on any extravagance of this kind, by the appropriation.

But that no limitation as to the particular destination of the ministers was intended to be made by law, is proved by the first appropriation bill passed in 1790, where \$40,000 is appropriated, not for the support of particular missions, but "for the support of such persons as he [the President] shall commission to serve the United States in foreign parts," and for their incidental expenses; and its only limitation is that of their compensation for the different grades, which has remained unchanged to the present day.

The prominent and striking case of ministers appointed to make peace during the recess of the Senate, stood so directly in the way of the position which denies the power to create a new mission in the recess, that the absolute necessity of removing or getting round it was apparent. But it could not be removed. There it stands—its existence evident—its constitutionality not doubted—its absolute necessity unquestioned. What was to be done? The ingenuity of the Senator from Virginia [Mr. TAZEWELL] has provided a remedy. The whole is referred to the war-making powers. The President is commander-in-chief of the army. He may find it necessary to make an armistice. He may effect this by such agents as he thinks proper. The plenipotentiaries to treat of peace are not ministers; they are agents to negotiate an armistice. As well, says he, may you call the officer sent to negotiate an exchange of prisoners, or settle the terms of capitulation for a fortress, as well might you call him a minister, as the persons sent to settle the armistice.

It is somewhat unfortunate for this argument that negotiators for peace are invariably plenipotentiaries; that their authority is authenticated by the same broad seal that is supposed to have added so much dignity to the diplomatic character of Messrs. Oflley, Biddle, and Rhind; that they are civil, not military officers; that they exchange their full powers with those with whom they treat; that the agreements they make are not armistices—intervals between acts of hostility—but treaties of peace, which put an end to them; and that ninety-nine times in a hundred, the putting an end to hostilities is only one out of many of the stipulations contained in a treaty of peace. The power of making it, therefore, is not a branch of the war power, but of that which is its very antagonist, the power to make treaties. A stipulation that the nations between whom it is contracted shall remain at peace with each other, even should it contain no other agreement, would be as much a treaty as any other that ever was made. It is called by that name; it is negotiated by the same means; requires the same ceremonies in its inception, and the same ratification for its validity as other treaties are. Why, then, call it an armistice, which is never ratified by the treaty-making power of the nation? Why liken it to the capitulation of a fortress, or an exchange of prisoners? Because the argument showed that here, at least, was a case in which the constitution could not bear the strict verbal construction that was contended for; and the precedent proved that it had been departed from in practice, and that the departure had never been questioned, much less stigmatized, by the epithets so liberally bestowed on the Turkish mission. All this made it necessary either to abandon the argument, or give another character to the power of appointing ministers in the recess to stop the ravages of war, when perhaps its continuance might endanger the existence of the nation. A treaty of peace is, for this reason, called an armistice, and the minister plenipotentiary who concludes it, is, by the argument, placed on the same footing with the subaltern who is led blindfolded into the postern of a besieged fort, to summon it to surrender.

But the Senator shall have it which way he pleases. The power to put an end to a destructive war, by the

appointment of ministers in the recess of the Senate, is acknowledged. Is it the rightful exercise of a power under the constitution? Then it can only be by giving to the clause the construction which I have put upon it. Is it a power over the constitution? Then the same end which I contend for, by a legitimate construction, is to be allowed by the dangerous plea of necessity—the tyrant's plea—which may not exist when used even to justify a peace. It may be humane, and convenient, and proper, to put an end to the devastations of war; but until the existence of the nation is at stake, until peace alone can save it from destruction, there is, properly speaking, no necessity. What shall be the case of necessity, then, must be determined by the party who is to avail himself of the plea; and, if admitted, will be found to embrace all cases that are found convenient. And if the plea of necessity be admitted to justify a treaty of peace, made by ministers appointed in the recess, why may it not cover a like appointment for making a treaty of commerce, or boundary, or cession, which could only be made at that time?

But is it possible the sages and practical statesmen who framed our form of Government should not have foreseen such ordinary and indeed inevitable occurrences; or that, foreseeing, they should not have provided for them? Is it possible that they could have left the power of making peace—seizing an advantageous occurrence to make an important treaty—or filling an important office, during the recess of the Senate, to be justified by necessity? The idea is an imputation on their wisdom or their patriotism, which they do not deserve. They did foresee—they did provide. And when they gave to the President the power to make treaties, subject to the assent of two-thirds of the Senate, they gave him the power to appoint the ministers by whose agency they were to be made; otherwise, we should exhibit the strange spectacle of a wise nation, which had so cunningly contrived its Government, as to deprive it, in conjunctures that most frequently happen, of the means of making peace, availing itself of favorable circumstances to secure commercial advantages, or filling some of the most important offices.

But the power may be abused! The President may appoint a host of ministers, and drain your treasury by the payment of their salaries. These ministers may make bad treaties! He may compromise our neutrality by acknowledging one of those new Powers which are daily springing into existence!

Alas! yes, sir, it is most true; unfortunately there is no power you can give, that is not liable to abuse. It cannot be denied; and the observation makes up for its want of novelty by its acknowledged truth. In every Government, check and balance it as you will, somewhere there must be confidence; and, until we can find men of unerring wisdom and incorruptible integrity, blind to the allurements of popularity—deaf to the voice of interest, favor, or affection—that is to say, until we can find men who are not men, that confidence will at times be abused. But it must be given. And it so happens that there is no power confessedly given to the President, that is not liable to greater and more fatal abuse than this. You fear war from his sending a minister to one of those new Powers which are yet unacknowledged by the rest of the world; and yet you cannot deny that he has the right to receive a minister from one of those Powers, without consulting the Senate or House of Representatives. You will not trust him with sending a minister, lest he should involve you in a war; and yet you confess that he has the uncontrolled command of your army and your navy—instruments, if he wishes war, infinitely better fitted to produce it.

You apprehend that he may lavish your treasures in the salaries of a few ministers, at the same moment that



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you give him the control of all the officers employed in the collection of your revenue. You dread that he may reward his favorites by appointments to embassies in the recess; and yet no man can obtain an office of any description, from the highest to the lowest of those which are submitted to the Senate, but by his previous nomination. You are obliged to swallow the camel—why strain at the gnat?

We now approach nearer to the very case which has excited this holy indignation against Executive encroachment and usurpation: excited it—if I may be permitted to use a phrase which did not seem to find favor with the Senator from Virginia, when it was uttered by another, [Mr. KANE,]—excited it too late—too late, indeed, says he, to save this mortal stab at the constitution; but not too late to preserve the Senate from participating in the parricidal act. Here I must take leave to differ. The stroke, if it be one, was given in the earliest day of our national existence. It has been repeated by every President who has sat in the Executive chair; every Senate, and every House of Representatives, have been accessories to the crime; and we ourselves have not yet washed our hands from the blood of the victim. I must be permitted therefore to repeat, that, in my poor opinion, it is now too late even to prevent the participation of the Senator himself; not too late, however, for him to show his zeal, energy, and eloquence in defence of the constitution, all which I greatly admire and respect, although I cannot participate in the feelings that have excited them.

In another point of view, I cannot but regret that the discussion had not taken place at an earlier time, and under other circumstances. The full development of the subject would require a reference to matters which all may speak of but ourselves; and although I cannot but feel much embarrassment in the endeavor to avoid disclosing the "secrets of our prison-house," I shall, in the little I have further to say on the subject, carefully avoid any improper disclosure, by confining my remarks in the defence to those circumstances which have been adverted on in making the charge.

The immediate causes of complaint, then, are, first, that Messrs. Olney, Rhind, and Biddle were appointed by the President, in the recess of the Senate, to negotiate a treaty with the Porte—that being a new mission; and, secondly, that if it had been even the filling of a vacancy, the President ought to have submitted the nomination to the Senate at its then next meeting.

The first error here is one of fact. This was not a new mission. Commodore Crane and Mr. Olney were sent by Mr. Adams, for the same purpose, to the same court. They had effected nothing, and a new commission was instituted, consisting of Mr. Rhind, Commodore Biddle, and Mr. Olney. Here was then a vacancy, if that should be required—a vacancy created by revoking the powers of one set of agents, and giving them to others; and if a vacancy, then, according to the most scrupulous, a right in the President to fill it. The next error is one partly of fact—partly of construction. It consists in giving to those commissioners the appellation of public ministers, and thus bringing them within the proviso of the constitution, which directs that such officers shall be appointed with the advice and consent of the Senate.

The distinction that was made by the Senator from Illinois, and supported by a reference to high authority on the law of nations,\* did not make upon the gentleman

from Virginia the impression it seemed to do upon the rest of the Senate. It is a well founded distinction, that which he thus urged, between a public minister and a secret agent. It seems to be thought that the nature and style of the mission is to be determined by the manner in which the powers are authenticated—not by the character given in those powers. Sir, there are grades in diplomacy which give different rank and privileges—from an ambassador to a secret agent. The lowest of these may have, for the purpose of binding the party he represents, the same powers that are usually vested in the highest. A chargé d'affaires may be ordered to make a treaty, or to compliment a sovereign on his accession; but he is neither more nor less than a chargé d'affaires—so the same acts may be done by a secret agent, having no public diplomatic character.

Ambassadors and other public ministers are directed to be appointed by the President, by and with the advice and consent of the Senate; because public missions required no secrecy, although their instructions might. But the framers of the constitution knew the necessity of missions, of which not only the object but the existence should be kept secret. They therefore wisely made the co-operation of the Senate ultimately necessary in the first instance, but left the appointment solely to the President in the last.

In the very instance before us, if the preceding efforts to form a treaty should have failed from too great a publicity being given to a mission intended to be kept secret; if it should have been defeated by the interference of other Powers; and if whatever success the present attempt has had, might be attributed to the secrecy with which the principal agent left the United States, and the ignorance of his object which prevailed among the ministers of other Powers at Constantinople; if it should turn out that these things were so, would they not form strong proofs of the tenuity of the distinction between those different kinds of agencies; the public, by means of public acknowledged ministers; the private, by agents specially authorized to perform a certain act, unknown to all but those with whom they treat.

But fault is found with the manner in which these agents were constituted. Their powers, it is said, were under the broad seal of the United States, certified by the signature of the President. This broad seal, or great seal, as it is alternately called, makes a great figure in the argument. Let the President, says the Senator, send his agents, his messengers, his spies, where he pleases—let them be kicked and cuffed by the authorities to which they go, he cares not. But the broad seal, the great seal, should never be profaned to such vile uses. Now, sir, I am not quite so indifferent about the usage our agents may receive, whether they are commissioned under the great or the little seal, or by no seal at all. But I should be glad to know in what manner a President is to signify to a foreign State his confidence in the agent he employs, or the powers with which he chooses to invest him, in any other manner than by his signature to those powers, and the addition of the seal of the United States, which authenticates it. To deny the use of these proofs of the commission given to such agents, is to say that they shall not be employed, because they can transact no business with a foreign Power without the usual proofs of their mission. But the right to employ them is abundantly proved by the laws of nations, and, as I shall show, by the constitution, and a uniform practice under it; therefore, the use of the seal makes no difference in the nature of the mission. They are private agents for the transaction of the business of the nation: public is, in one sense,

diplomatic agents sent to foreign countries in the reigns of Louis XIV and XV. A number of missions of this nature took place during the American war, and during the first years of the French republic."

\* *Of Secret Missions.*—"As it happens frequently that Governments do not wish to treat ostensibly on certain matters which they have an interest to conceal from the knowledge of other Powers, it is customary to send and to accept secretly to a foreign Government, or even only to its Department of Foreign Affairs, only persons of confidence; but without giving them the formal character of public ministers, or authorizing them only to assume it when the negotiation shall have been carried to the desired point." Martens's *Manual Diplomatique*, p. 15; and in a note, he says: "We have frequent examples of secret

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the reverse of secret; but, in another, it means what appertains to the nation; and, in this acceptation, there is no confounding of terms, by saying that a secret agent may be appointed to transact public business. The commissioners to the Porte were such secret agents; their commission, though it gave them plenipotentiary powers for a national purpose, was a secret agency, and the President was under no necessity to nominate them to the Senate; it would have been an act of imprudence if he had done so, and the treaty would, most probably, have failed.

Sir, I should be the last man who would impute to any honorable member of this body the indiscretion of divulging any thing confidentially committed to us. But I put it to the Senator who told us how safely all negotiations might be entrusted to its management, whether he ever knew any important subject of our confidential debates that was not first whispered about in the taverns of the city, and soon afterwards alluded to in the public papers. The very subject before us is an instance of what I say; the injunction of secrecy is not removed, and yet provisions, which it is supposed that treaty contains, are as common a topic of discussion as if it had been published; nay, in the warmth of debate, here, with open doors—but, sir, I will pursue that subject no further, lest I might, in my own conduct, afford a proof of what I assert. Suffer me to repeat, that if ever there was a justification for the employment of a secret agency, the circumstances of this case afford it. If ever there was a case in which the difficulty of confining to these walls what passes within them when our doors are shut, this is that case.

Grant that these were secret agents, and not public ministers: it is said, with a triumphant tone, show the power of the President to appoint them. Sir, I will do this, so that every unbelieving political apostle who doubts, may not only hear and see, but shall lay his finger on the clause. It is found in the express, unequivocal authority given to the President to make treaties. If, under this power, he himself should make a treaty with a foreign minister, and submit it to the Senate, could it be objected to as being unconstitutionally negotiated? Surely not by those who contend for literal constructions. But no one has denied that he may do it also by others; must such others be ambassadors or public ministers? Where is the clause that restricts him to such agents? We have seen that, by the law of nations, other grades are known and employed under the title of secret agents. What title in the constitution, what forced construction of any word it contains, can be made to show that he may not make choice of them when he deems it expedient? There is none. The power to make treaties is given, and with it the power to employ all proper means to effect it; secret agents are at times proper means, and therefore he may employ them; therefore, he must employ them whenever he thinks publicity would endanger the failure of his object. Now, sir, let us see whether a practical construction, in every thing conformable to the principles I have laid down, has not been pursued, and from what period. A uniform practice in conformity with any particular construction is always strong evidence that its first construction is correct; as applied to our constitution, it is particularly persuasive, if it arose under the management of those who framed the instrument, and best knew its intent; and it becomes almost conclusive, if the practice has been uninterrupted and unquestioned. All these characteristics, unless I greatly deceive myself, will be found in the succession of acts to which I now invite the attention of the Senate.

The practice of appointing secret agents is coeval with our existence as a nation, and goes beyond our acknowledgment as such by other Powers. All those great men who have figured in the history of our diplomacy, began their career, and performed some of their most important

services in the capacity of secret agents, with full powers. Franklin, Adams, Lee, were only commissioners; and in negotiating a treaty with the Emperor of Morocco, the selection of the secret agent was left to the ministers appointed to make the treaty: and, accordingly, in the year 1785, Mr. Adams and Mr. Jefferson appointed Thomas Barclay, who went to Morocco and made a treaty, which was ratified by the ministers at Paris.

These instances show that, even prior to the establishment of the Federal Government, secret plenipotentiaries were known, as well in the practice of our own country as in the general law of nations; and that these secret agents were not on a level with messengers, letter carriers, or spies, to whom it has been found necessary in argument to assimilate them. On the 30th March, 1795, in the recess of the Senate, by letters patent under the great broad seal of the United States, and the signature of their President, (that President being George Washington,) countersigned by the Secretary of State, David Humphreys was appointed commissioner plenipotentiary for negotiating a treaty of peace with Algiers. By instructions from the President, he was afterwards authorized to employ Joseph Donaldson as agent in that business. In May, of the same year, he did appoint Donaldson, who went to Algiers, and in September of the same year concluded a treaty with the Dey and Divan, which was confirmed by Humphreys, at Lisbon, on the 28th November in the same year, and afterwards ratified by the Senate on the — day of —, 1796, and an act passed both Houses on 6th May, 1796, appropriating a large sum, twenty-five thousand dollars annually, for carrying it into effect.

I call the attention of the Senate to all the facts of this case, with the previous remark, that the construction which it gives to the constitution was made in the earliest years of the Federal Government, by the man who presided in the convention which made that constitution, acting with the advice and assistance of the leading members of that body, all fresh from its discussion; men who had taken prominent parts in every question that arose. That in the Senate which ratified it, and in the House of Representatives which carried it into execution, were several members, not only of the convention when it was formed, but of the State assemblies where it was discussed, analyzed, every hidden defect brought to light; every possible inconvenience predicted; every construction given that ingenuity, sharpened by opposition and party feeling, could conceive: where amendments were proposed, to remedy apprehended evil; where it was examined, article by article, phrase by phrase, not a word, not a syllable, escaping their inquisitorial scrutiny. Yet, by those men, with this perfect and recent knowledge of the constitution, acting under the solemn obligation to preserve it inviolate, and without any possible motive to make them forget their duty, was this first precedent set; without a single doubt on the mind that it was correct; without protest, without even remark. A precedent going the full length of that which is now unhesitatingly called a lawless, unconstitutional usurpation; bearing the present act out in all its parts, and in some points going much beyond it. Like the present case, it was an appointment in the recess of a commissioner, with full powers to make a treaty; these powers were authenticated as these were, by the signature of the President and the great seal of the nation. But it differs in this, that the commission to Col. Humphreys was an original appointment, and, therefore, according to the new doctrine, more objectionable, no minister having before been appointed to treat with Algiers. Whereas, in this case, a previous commission had been given by Mr. Adams, which was vacated by the recall of the first powers, and the appointment of Rhind, Olfley, and Biddle. It went infinitely further than this, in giving to the minister the authority to appoint a substitute, and

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in the fact that the substitute negotiated and made the treaty—the minister remaining in Lisbon, and Donaldson going alone to Algiers, where the treaty was concluded. Mark, too, that the commission to Humphreys is dated only three weeks after the adjournment of the Senate in March; that Donaldson was employed in May; and that neither Humphreys nor Donaldson were ever nominated to the Senate, although they of course met in the December following. Look, sir, into the executive journal before you. No nomination of Humphreys, under this commission—not a syllable said of Donaldson. Yet, when the treaty came, it was ratified; yet both Houses passed a law for carrying, *eo nomine*, this very treaty into effect; no squeamishness about the phrase under which the appropriation should be made; nothing hidden; the whole transaction—the mode of its execution—the agents by whom it was effected, broad seal and all—the appellation of the agent, commissioner plenipotentiary, which is now so offensive, all spread before the Senate, composed of men, four-fifths of whom I may, I think, say, had either aided in making the constitution, or deliberated on the propriety of its adoption, and this treaty sent to them by George Washington. Yet, with all these badges of lawless, unconstitutional usurpation on its back, the treaty is ratified—the law passes. No grave Senator, no independent representative rises to oppose this gross assumption of power. Did patriotism sleep on its post? Where were the watchful, the sworn guardians of the constitution, thus palpably violated? Where were the Senators, jealous of their rights? Where the representatives of the people, sent to guard the palladium of their liberties? All silent; not a word of opposition; not a whisper of doubt. And yet the violation, “gross, open, palpable”—more gross, more open, more palpable than the one we are now warned against, because in more points it contradicts the construction that is affirmed as the only true and orthodox faith by which we may be politically saved. Ought not this practical and contemporaneous construction, even if it stood alone, to create some doubt of the doctrines we are so vehemently urged to adopt? Ought not the example of Washington, even if, in our superior wisdom, we now, for the first time, guided by new lights, find it wrong, ought it not to command some little indulgence for those who follow it?

Will it be said that this example does not apply? Let the difference be pointed out; and where they differ, the example set by Washington will be found more at war with the principles laid down by the Senator from Virginia, than the acts which he now denounces as unconstitutional.

Will he refer again to the war-conducting power, and call the treaty with Algiers an armistice? The treaty itself replies to this answer—it is a treaty of commerce, as well as of peace.

But this is not an isolated case. In the very same year, on the same day of the year, the 30th March, 1795, David Humphreys received another commission, by letters patent from President Washington, authenticated in the same manner, constituting him commissioner plenipotentiary for negotiating a treaty of peace with “the most illustrious the Bashaw, Lords, and Governors of the city and kingdom of Tripoli,” with like power of substitution. On the 10th February, 1796, he transferred his powers to Joel Barlow; and, on the 3d January, 1797, Mr. Barlow made a treaty with the Bashaw and his Divan, which was, in like manner with the former, approved by Col. Humphreys, at Lisbon, on the 10th February, 1797, and was ratified by the Senate the following session. Here we find three sessions, after the commission, pass, before the treaty is presented to the Senate for its confirmation, during all which, no nomination of either Humphreys or Barlow was made. Surely, if a doubt had crossed the mind of the President, that mind of which the eminent

characteristics were deliberation and prudence, if the shadow of a doubt had passed over it, would not the same regard for the constitution, for which he was equally remarkable, have induced him to consult his cabinet, to consult, as he frequently did, on other and less important occasions, the Senate? Sir, he had no doubts; the greatest and best, and most prudent man in the country had no doubts. His advisers had none—the Senate had none. The House of Representatives did not hesitate; and the nation, filled with men whose minds were enlightened by continued discussions of the constitution, approved. Yet we doubt. Nay more, we decide; and, admitting no contrariety of opinion, stigmatize that very conduct thus pursued by Washington, as lawless usurpation. That great man, very soon after this, retired from office, carrying with him the benedictions of his fellow-citizens, and little suspecting that this wise and upright act of his administration would draw down on those who copied it the reproaches we have heard. John Adams, who, besides the great share he had in forming the constitution, was pre-eminently qualified to judge on every question relating to foreign intercourse; who might be styled the founder of American diplomacy—John Adams succeeded him. And he, too, strange as it may appear—he, too, fell into the same fatal error, or (if the case is as clear as is supposed) was guilty of the same unpardonable fault. He, too, on the 18th of December, 1798, put his signature and the great broad seal of the nation to a paper, vesting Richard O'Brien, William Eaton, and James Leander Cathcart, with full powers to negotiate with the Dey and Regency of Tunis, alterations in a certain treaty made in the year 1797, by Joseph Famin, who calls himself a “French merchant residing at Tunis, and chargé d'affaires of the United States.” These gentlemen made the new treaty on the 6th March, 1799; yet neither the nomination of the French merchant, who made the first treaty, (which must have been in the time of General Washington,) nor of the three other commissioners, was ever submitted to the Senate. And it is remarkable that this last appointment was made on the 18th December, when the Senate was in session.

During the administration of the next President, Thomas Jefferson, only one treaty with the Barbary Powers (that with Tripoli) was made; but as the negotiation was carried on by Mr. Lear, the public minister of the United States at that place, nothing can be inferred from this transaction that bears on the question; but Jefferson's co-operation in the two appointments which I have quoted, by General Washington, leaves no doubt of his construction of the constitution.

Here we have the practice of Washington, Adams, and Jefferson, uniformly the same, sanctioning every part of the conduct pursued by the present Chief Magistrate; and, in some instances, as I have shown, pushing the construction further than he has found it necessary to go. But this is not all: Mr. Madison comes next. If any voice can be called the oracle of the constitution, it is his: if any practice under it can be deemed void of error or intentional wrong, it is that of the wise, the venerated Madison. What did he do? He followed precisely the route in which his predecessors trod. In the year 1815, hostilities having been commenced by Algiers, he commissioned William Shaler, and the gallant and lamented Decatur, to negotiate with them. They concluded a treaty on board of the United States' ship Guerriere. But he never nominated them to the Senate; yet the treaty, like the others, was ratified by the Senate in the succeeding session, without a question as to their right to co-operate in the appointment. He it was, too, who, in the recess of the Senate, sent the commission which made the treaty of peace with Great Britain.

Again: Difficulties having arisen as to the execution of the treaty with Algiers, another commission was issued on

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the 24th of August, 1816, to William Shaler and Isaac Chauncey, who renewed the former treaty, with alterations, on the 23d of December of the same year. And again the Senate were kept in ignorance of the appointment, until the treaty was sent to them for ratification. This is the last treaty with any of the Powers professing the Mahometan faith, prior to the one that has given rise to this discussion. And, in forming this, the President, with stronger reasons for secrecy than any of his predecessors had, has only, as far as he has gone, followed their example—followed his own and their construction of the constitution—and exercised no power that had not for forty years been universally acknowledged to be legitimate. I bring the acquiescence down to this moment, because the questions raised on the Panama mission are not those to which this transaction gives rise. Then the objection was to an appointment of a peculiar nature—a mission, not to a particular Power, but to a Congress of Powers; it was not supposed to be strictly diplomatic; our agents, it was feared, were to act as deputies to a confederative Government, rather than as ministers. And to this was added the difficulty, at that time first raised, to the power of creating a new mission in the recess; here, however, the first objection cannot apply, and the previous appointment by Mr. Adams takes away the second. The objection, then, to the making a treaty by secret agents, whose nomination is not sent to the Senate, is, I repeat, a new objection made to an established, and, as I believe, a perfectly constitutional practice. The objection is new, but it may yet be well founded, although I cannot perceive its force; and, not perceiving it, must be permitted to think it passing strange that it never before occurred to one single individual, who has ever expressed his opinion on the subject, as far as my limited information goes.

There are two other Presidents whose acts and opinions on this subject we have to examine, in order to complete the series.

On Mr. Monroe's accession to the Presidency, he found our peace secured with the Barbary Powers; he had, therefore, no commissioners to appoint to them; but he had participated, as the head of the Department of State, in those which had been sent by Mr. Madison; and we may, therefore, fairly suppose, that, if the occasion had offered, he would have followed the same course. But, during his administration, and that of his successor, it was found convenient, in the exercise of the same constitutional right of making treaties, to employ other agents than "ambassadors or public ministers," to form treaties with European and Christian Powers, as had been formerly done with the Mahometan States of Africa. Differences had existed ever since the treaty of 1802 with Spain, not only of boundary, but on account of claims, to a vast amount. The settlement of the dividing line between the United States and Mexico would take from or add to our territory an extent sufficient for the establishment of several States. And the acquisition of Florida had always been considered as a matter of primary importance. If, then, the magnitude and importance of the objects; if the rank and dignity of the party, required that the negotiation should be conducted by public ministers, and that their appointment should be confirmed by the Senate, here was the case. Here was not even the plea of the recess. For during the session of Congress, in 1818-19, Mr. Monroe gave to Mr. Adams plenipotentiary powers to treat with the minister of Spain, and make a settlement of all these important matters. He gave these powers by commission under the great seal. He never communicated the appointment to the Senate, although they were in session. The negotiation was carried on in the very place where they sat, and was concluded before they adjourned, by a treaty which purchased the two Floridas; settled our boundary, by abandoning our claims to the immense extent of

country between the Rio del Norte and the Sabine; and made a charge on our treasury of five millions of dollars. Yet, sir, this treaty was ratified by the Senate, and not one word of reprobation, not an accent of doubt uttered as to the irregularity of the commission by which it was negotiated; and both Houses concurred in passing laws for carrying it into execution.

Again: When Mr. Adams came to the Presidency, he—in like manner, in the year 1826, commissioned Mr. Clay to treat of and conclude a treaty of commerce and navigation with the minister of Denmark; which treaty was signed on the 26th of April, in the same year, during the sitting of the Senate, and in like manner ratified by them, although the appointment of Mr. Clay was never made known to the Senate, and of course was not confirmed by them. And we, sir, we ourselves, every one of us, who now hear or make these denunciations—we have ratified a treaty made with one of the greatest Powers of Christendom, by a plenipotentiary commissioned under the great seal, whose appointment was never sanctioned or sent to the Senate for its advice; and that, too, a Power with which before we had no diplomatic intercourse—with Austria—made by the present Secretary of State, under a special appointment by the President. Should it be said that this practice of employing a special minister at home to make treaties with a foreign Power, is of modern date; that it does not, like the case of the Mediterranean commissions, run back to the early part of our diplomatic history, I would answer that this, too, is an error; and that my construction is sanctioned in this also by the practice of Washington. As early as the year 1796, some doubts having arisen as to the operation of the third article of Mr. Jay's treaty, Mr. Pickering was commissioned to negotiate an explanatory article, which was agreed to, submitted to the Senate, and ratified without any nomination of the negotiator to the Senate.

Now, sir, does not this uniform, this unquestioned practice, carried through every Presidency, from that of the father of his country to that of the present incumbent; is it not strongly persuasive of the correctness of that construction which gives to the President the power to make treaties whenever he may deem it expedient, by a special agent, instead of a public minister—to give full powers, under the great seal, to such special agent, and to omit nominating him to the Senate when he thinks proper? Will it be said that the instances I have last mentioned do not apply, because the Secretary of State was the agent? But he was the agent only by the special commission, given to him by the President—a commission, without which he could not have acted, which as his full power, he was obliged to interchange with the minister with whom he treated, before the negotiation could begin. If, as Secretary of State, the duty could have been done, mere instructions would have sufficed—no commission would have been necessary. But in every instance commissions were delivered, in the same form, as to powers, that are used for ministers going abroad. The President might have selected any other individual, and the case is as strongly in point as if he had. Will the gentleman point out the difference between these cases which he, jointly with all of us, has approved, and that which he now so violently reprobates? If the President may appoint a special agent to make a treaty with a nation with whom we had none before, without submitting the nomination to the Senate; if he may make such an appointment for a negotiation here, can he not make a similar appointment for a negotiation to be carried on in Constantinople? If the latter is forbidden, where is the clause that authorizes the former? If the former is legal, where is the clause that excludes the latter? Are not both exercised under the same constitutional authority? Why, then, sanction the one and denounce the other? It appears to me that a satisfactory answer to these queries

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would be difficult, even to the ingenuity of the mover of the amendment; and that it would be somewhat difficult for him to show that there is any one of the inconveniences and dangers which he apprehends, from the appointment of commissioners, with full powers, going to a foreign country, that does not attach to negotiations by special agents at home. But these dangers are imaginary in both cases. Nothing either of them can do has any force until we sanction it. And in requiring the assent of two-thirds of the Senate to every treaty, those who made our form of Government thought they might safely trust the discretion of the President in selecting the agents for making it.

But to remove all ground for the distinction, take an instance from the same collection of treaties which I have before quoted. In the year 1818, Mr. Gallatin, then our minister in France, was commissioned jointly with Mr. Rush, our minister at St. James', to negotiate a treaty with England, in the same manner that the Secretaries of State were commissioned to negotiate at Washington. This nomination was never submitted to the Senate, yet a most important convention, made under that appointment, was ratified by the Senate; so that here we have commissioners appointed at home, abroad, to christians as well as infidels, in every form, in every character in which the power can be exercised, and in every form acknowledged by the co-ordinate branches of Government to be constitutional and right; and yet, sir, it is now undertaken to arraign and denounce it as a usurpation. The second ground of accusation, that the nomination, though made in the recess, was not submitted to the Senate when they met, has been anticipated. It may be justified on several grounds; which were those which actuated the President, as I am not in his counsels, I do not know. It may be justified on the necessity of keeping the mission a secret until the result was known; on his constitutional power of originating a secret mission without the co-operation of the Senate; and on the inutility of naming persons to be confirmed in offices which were temporary in their nature, and which must expire before the confirmation by the Senate could be made, or at any rate before it could reach them. Thus the treaty with the Porte having been completed before the adjournment of Congress at the last session, it would have been useless to confirm the powers of the negotiators. I pass over the argument to show that, although the letter of Mr. Otley particularly states that he signed the treaty on Sunday, yet he must have been mistaken, because no christian in a country of infidels would be guilty of a breach of the christian sabbath. I pass that over with asking how often we ourselves, when duty required it, have not sat and deliberated within these very walls on the same sacred day; and whether disobedience to any of our legal acts, done at such a time, would be excused on the allegation of an impossibility of our having been guilty of the breach.

Sir, I have now finished a task which I wish had fallen into abler hands. I have endeavored to show, that if the evil which is denounced as a lawless usurpation, be tried by a fair construction of the federal compact, by its contemporaneous exposition, by the example of the best, and wisest, and most prudent men who have directed the affairs of the country, or by the uniform practice of every President, sanctioned by the acts or acquiescence of every Senate and every House of Representatives since the institution of our Government; if these are to weigh against the denunciation of the Senator from Virginia, then the accusation falls. He has urged it with vehemence and zeal—he has enforced it with his accustomed eloquence; but, according to the best judgment that God has given me, I must say he has not supported it by a single proof.

Mr. TYLER rose when Mr. LIVINGSTON concluded, and stated his wish to address the Senate; but, as what he had to say, would consume more time than the Senators

would be disposed to indulge him with this evening, he moved an adjournment. The motion prevailed, and The Senate adjourned.

THURSDAY, FEBRUARY 24.

## CRIMES IN THE DISTRICT OF COLUMBIA.

On motion of Mr. CHAMBERS, the Senate resumed the consideration of the bill for the punishment of crimes within the District of Columbia.

Mr. C. said that, when the bill was last before the Senate, debate arose on a motion by the gentleman from South Carolina [Mr. HAYNE] to recommit the bill to the District Committee, with a view to striking out the clause relative to punishment for duelling, or being concerned in a duel. The amount and importance of the business before the Senate, and the expediency of early acting upon it, induced him to waive any remarks at this time on the motion, that the sense of the Senate might at once be taken upon it. If the bill was recommitted, the committee would of course report the bill with the clause stricken out; and he could see no necessity for its recommitment, because the question might as well be taken now.

Mr. HAYNE explained the reasons why it had not been in his power to make the motion at an earlier day. He was desirous of testing the sense of the Senate on this particular clause of the bill. If the recommitment took place, the committee would either strike out the clause, or so modify it as to meet the views of the Senate. A speedy decision on the bill was desirable, and he took the occasion to say, that, if this recommitment took place, there would be no further opposition on his part. Under the present provisions of the bill, not only the parties convicted of fighting a duel, but the bearer of the challenge, the surgeon, &c.—every accessory—was to be punished by five years' hard labor in the penitentiary. With due deference to those who introduced this clause into the bill, he was of opinion that so severe a mode of punishment would destroy the whole object of the provision. The punishment was so severe, that no jury would be found to enforce the provisions of the law. The punishment for crime should be adapted to the prejudices, the passions, and opinions of the people, and a milder cause would be found to answer a more practical purpose. Perhaps the better course would be to strike out the clause altogether from the present bill, and then, by special statute, prescribe the punishment for duelling. This bill went further than the laws of any State of the Union on the subject; and he thought that if the Congress of the United States, under the auspices of the Senator from Louisiana, should pass a law determining what the punishment in such cases should be, the several States would adopt the regulations of such a law.

The bill was then ordered to be recommitted; but, at the suggestion of Mr. CHAMBERS, the vote was reconsidered, and the Senate struck out the clause referred to altogether.

Thus amended, the bill was passed.

## THE TURKISH MISSION.

The Senate having resumed the consideration of the appropriation to pay the negotiators of the Turkish treaty,

Mr. TYLER said, the Senator from Louisiana [Mr. LIVINGSTON] had commenced the speech which he yesterday delivered, by repeating, with much emphasis, the words "a lawless act, and in derogation of the rights of the Senate." These words had fallen from my colleague, said Mr. T., and seemed to have excited the feelings of the honorable Senator, and, in some degree, his displeasure. My colleague requires no aid from me, or any other individual, to justify either his language or his conduct. The motives of the last will at all times be above reproach; and the language which he may at any time use will never fail to convey most strongly the idea which it is intended to represent. I will, however, say to the



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honorable Senator, that if either my colleague or myself use expressions not familiar to the ears of courtiers, he must excuse our rusticity, and ascribe our fault to our course of education, and the land from which we come. The inhabitants of that republic are somewhat a bold and fearless race, and practise upon a principle which has been, for all time, prevalent amongst them, of calling things by their right names. If an act be done without law, they call it lawless; if in derogation of the right of others, they say so, whomsoever it may offend.

The same gentleman has more than intimated that this was not the proper place for this discussion; that it would have been better to have carried it on in secret session. I differ with him in this, as in much else. By and by I shall show that the opportunity was not afforded until the bill upon your table came up for consideration; but if it had been, our secret chamber is no place for the discussion of a great constitutional question. It was proper, in every point of view, that the debate should be in this place. Here, before the public, the attack should be made. In the face of the world our reasons should be given for our course of conduct, and for the attitude we assume upon this important subject. This discussion has been forced upon us, from what motives, and for what ends, I leave to others to determine. Every Senator here can testify that my colleague, in a day or two after taking his seat this session, announced his opposition to the course which had been pursued in regard to the late mission to Constantinople. The Secretary of State knew his opinions at an early day, and yet the plain, the obvious, the palpable course by which all controversy might have been avoided, has been made to yield to this. The torch of discord has been thrown among us, and the unity of the party with which we have, with but one exception, acted, is for the time broken up. This claim of individuals, resting merely on a contract with the President, is diverted from the ordinary course of private and individual legislation, and attempted to be thrust into the general appropriation bill.

I am aware of the effect of this, whatever the design. A hue and cry is to be raised at our heels. An anecdote will serve to illustrate its character. The night succeeding the day on which my colleague delivered his powerful argument on this question, the ice in the Potomac was put in motion, and pressed on by the mountain torrent produced by the thaw, carried off a part of the bridge connecting this with the Virginia shore. A gentleman gave me the information, and said, with archness, the connexion between Virginia and the President's mansion is now severed. My colleague's speech doubtless produced the thaw; and to him, also, will be ascribed whatever evil shall arise from this discussion. All are esteemed schismatics who oppose themselves, no matter upon what ground, to an error committed; and we shall be pronounced heretics by the political Catholic church. In other words, an act is done which in our consciences we cannot approve—which those who have the management of this affair are told in advance we cannot approve; and then we all are to be denounced as schismatics, and all the vials of wrath are to be emptied on our heads. This, sir, is a perversion of all justice, of all moral rule. Those who perpetrate the error, must surely be responsible for consequences resulting from it.

It is our duty, Mr. President, under all circumstances, and however situated, to be faithful to the constitution. *Esto perpetua* should be the motto of all in regard to that instrument, and more emphatically those into whose hands it is committed by the parties to the compact of union. Sir, parties may succeed, and will succeed each other; stars that shine with brilliancy to-day, may be struck from their spheres to-morrow; convulsion may follow convulsion; the battlements may rock about us, and the storm rage in its wildest fury; but while the con-

stitution is preserved inviolate, the liberties of the country will be secure. When we are asked to lay down the constitution upon the shrine of party, our answer is, the price demanded is too great. If required, to pass over its violation in silence, we reply, that to do so would be infidelity to our trust, and treason to those who sent us here. The constant effort of Virginia has been directed to its preservation; the political conflict of the hour has never led her to yield it for an instant. No matter with what solemnity the violation has been attended; although sanctioned by the two Houses of Congress and the President of the United States, and confirmed by judicial decision, she has not halted in her duty. How little, then, should we be entitled to represent her, if we could so far forget ourselves as to hobble in our course. Let me, sir, be distinctly understood: I lay down no rule for others. Senators here will prescribe rules for themselves. No doubt all will be governed by motives equally pure and honorable; but, holding the opinions which I do upon this subject, I should esteem myself the veriest recreant to my most solemn obligations, if I could bring myself to support this appropriation.

The Senator from Louisiana has pronounced it a new discovery which we have made—a new discovery, sir? Was it not proved to the Senate the other day, that the power had always been denied to the President of sending ministers to foreign courts of his own mere motion? Sir, neither the discovery is new, nor the doctrine; both are as old as the constitution itself, as I shall presently demonstrate, from the very letter of that instrument. What was that question which but a few years since divided this Senate? What was the Panama question, but the bone, flesh, and sinew of this?

[MR. LIVINGSTON explained. He had spoke of secret agencies: no one had ever objected to them as unconstitutional.]

Sir, said Mr. TYLER, this is no secret agency, in the diplomatic sense; but a secret embassy, or mission. But let us return to the Panama question. What was that? Nothing more than a mere abstract declaration made by Mr. Adams, that the right to depute ministers without the interposition of the Senate fell within the competency of the Executive power. He did not appoint, however, but, as the constitution required, nominated persons to the Senate for its advice and consent; and yet what was the course pursued? There then stood on this floor, arm to arm, and shoulder to shoulder, nineteen Senators, who, with their shields interlocked, moved with the irresistible force of the Spartan phalanx upon that enemy-principle which threatened to overthrow the constitution. The present Secretary of the Navy moved the resolution in the following words, viz.

“Resolved, as the opinion of the Senate, inasmuch as the claim of powers thus set up by the Executive might, if suffered to pass unnoticed by the Senate, be hereafter relied upon to justify the exercise of a similar power, they owe it to themselves and the States they represent, to protest, and they do hereby solemnly, but respectfully, protest, against the same.”

Mark you, sir—a mere claim set up. The apprehension, that that might be called into precedent, to justify the exercise of a similar power by some future Executive, was sufficient to produce so solemn a resolution as that which I have read. Let us look to what was uttered in debate on that question. The state of the vote has already been mentioned. I will read to the Senate some of the remarks which fell from the present Secretary of the Navy. Before I do so, however, let me speak my honest convictions. I do not believe that he has had any agency in advising this mission to Constantinople. I do not believe that he could be guilty of an inconsistency so gross and palpable. No man has more confidence in the firmness of his adhesion to the principles of the constitu-

tion than myself. In his attachment to the great doctrines of the democratic party, he is a fit and proper representative of the State of which he is a native—a State which has been distinguished by nothing more strongly than by her uniform devotion to the constitution. That star in our political galaxy has never shed “disastrous twilight,” or undergone eclipse. Sir, I speak not *ex cathedra*. I have had no syllable of conversation with that gentleman; but, from my knowledge of his character, and other circumstances, I am led to the opinion which I have expressed. “I view,” said Mr. Branch, referring to the resolution, “the usurpation which it notices and purports to repel, as a link in the chain, threatening the most portentous and calamitous consequences to the liberties of this people.” “Isolated, unconnected with any thing else, yet so plainly and palpably conflicting with the letter and spirit of the constitution, it is truly appalling to the friends of liberty.” And again, “It is time to re-enact magna charta; it is time to re-assert the principles of the declaration of independence.” The mere assertion by the President that he possessed the power of appointing ministers, and of originating a mission, without consulting the Senate, produced these strong expressions. Magna charta was violated, and the principles of the Government required to be re-asserted. I might multiply quotations from the same speech, all equally impressive, but I will pass to that delivered on the same question by a gentleman, then a Senator, now a member from Kentucky in the other House. I deem it necessary to quote but one sentence in order to exhibit his strong convictions on this claim of power set up by Mr. Adams. [Mr. TYLER here read from Mr. JOHNSON’S speech.] “I think I might risk the decision of this question upon the hazard of a universal and unanimous opinion as to the plain common sense meaning of the constitution.” To cite passages equally strong from the speeches of others, would not be difficult. The opinions then uttered by my colleague are the same that he has enforced in this debate. But I will give you the expressions and opinions of a gentleman who stands more immediately connected with the proceeding now the subject of discussion. I mean the Secretary of State—the person immediately charged with the management of our diplomatic relations—one upon whose advice the President doubtless reposed with confidence. I have found no speech of his reported on Mr. Branch’s resolution, and imagine that he delivered none; but he spoke on the Panama question, properly so called, and subsequently on the rules of the Senate. Let us see his speech on the first question. [Here Mr. T. read from that speech.] “The measure is deemed to be (that of sending ministers to Panama without previously consulting the Senate) within the constitutional competency of the Executive; that we are only consulted to obtain our opinion on its expediency, and because it is necessary to come to us for an appropriation, without which the measure cannot be carried into effect. Yet, sir, the first blow that was struck in that great contest which subsequently convulsed the country, and the first voice that was raised to arrest the current of events then setting in, (speaking of the suggestion which was made by the first Adams relative to the mission to Berlin,) were on points, to all substantial purposes, identical with the present. Is it not a startling, if not an ominous circumstance, that so soon under the present administration we should have presented to us, in such bold relief, doctrines and principles, which, in the first year of that to which I have referred, laid the principles of the most bitter and unrelenting feuds? Does the analogy stop here? The men who then opposed the mission to Berlin were denounced as oppositionists—as a faction who sought the gratification of their personal views at the expense of the public good. They were lampooned and vilified by all the presses supporting and supported by the Government, and a host of malicious parasites ge-

nerated by its patronage.” Yes, sir, and we shall be lampooned and vilified for the course which we now pursue. My colleague read correctly the handwriting on the wall. What was fact formerly will be fact again. But let the storm rage, if it shall be so willed by those who control the operations of particular presses; I stand here the advocate of the constitution, and, if necessary, I am ready to become the victim in its place.

I am not yet done with the Secretary of State. I will read you a paragraph from a speech delivered by him on what was commonly called “the Rules of the Senate,” a speech delivered since I have had the honor of a seat on this floor.

“The same disposition to limit the popular branch was forcibly illustrated in the discussions of the foreign intercourse bill in 1798. It was upon that occasion contended, and successfully, too, that the House of Representatives had no discretion upon the question of appropriation for the expenses of such intercourse with foreign nations as the President saw fit to establish; that they would be justly obnoxious to the imputation of gross delinquency if they hesitated to make provision for the salaries of such foreign ministers as the President with the assent of the Senate should appoint. What would be the feelings of real and unchanged republicans in relation to such doctrines at this day? Associated with them was the bold avowal that it belonged to the President alone to decide on the propriety of the mission; and that all the constitutional agency which the Senate could of right have, was to pass on the fitness of the individuals selected as ministers. It was pretensions like these, said Mr. Van Buren, aided by unceasing indications, both in the internal and external movements of the Government, that produced a deep and settled conviction in the public mind that a design had been conceived to change the Government from its simple and republican form to one, if not monarchical, at least too energetic for the temper of the American people.” Indeed, sir, the avowal that the President alone possessed the power to decide on the propriety of a mission, and that all our agency consisted in determining on the fitness of the minister to be sent, if not monarchical, is at least too energetic in its tendency, bold, and somewhat reckless; and yet a mission originated, and not even the names of the ministers sent into the Senate; and, that, too, notwithstanding a long session of that body had, in fact, intervened. Why, sir, here is not only a bold avowal, but the actual execution of that avowal with a vengeance. Not only no previous consultation with, but no nomination even ever submitted. The Secretary also voted for the resolution of Mr. Branch in the only form in which he could express his opinion. And yet, “ere those shoes were old” with which he followed (not “like Niobe, all tears,” but with a heart full of joy and gladness,) the last administration to its grave, the same doctrine is carried into full practice. What, sir, make war upon an abstraction; cause the thunders to roll and the lightnings to flash, in order to annihilate a mere abstraction, and yet call upon us to sanction its practical application! Will gentlemen recant thus their opinions solemnly recorded? Shall it be said that we can give two readings to the constitution, and that that which is unconstitutional in Mr. Adams’s time becomes right and proper under General Jackson? Shall we put off our opinions with as much facility as we do our gloves? Have we not good grounds to complain of the Secretary of State, if he advised this mission? and that he did so, I cannot bring myself to doubt. Has not the whole Jackson party cause to complain? Was there any question on which that party stood so deeply committed as on this? None, sir; not one.

Even if there existed an aptness in the cases referred to by the Senator from Louisiana as furnishing precedents to justify this mission, howsoever they might influence the President, they can furnish no excuse for the Secre-

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tary, his constitutional adviser. Those cases were all paraded in the discussion on the Panama question; they were commented on, and their force overthrown. Can an actor in that proceeding now repose for his justification on precedents which had been declared of no force or effect? Let it not be said that the President is alone liable to be questioned. The constitution has placed around him advisers in the several departments, and for the counsel they may give him they are answerable, not only to him, but to public opinion.

But, Mr. President, we are told by the Senator from Illinois, [Mr. KANE,] that these persons were not public ministers. Now, sir, there is an old saying, and a very wise one—"save us from our friends, and we will take care of our enemies;" and never was it more applicable than on the present occasion. If an attempt is made to excuse a thing, and the excuse prove insufficient, better by a hundred times had it never been urged. Why, sir, if these were not public agents, what in the name of common sense were they? Formerly, and no doubt it is still the case, kings and potentates had their private ambassadors. They are deputed to transact some matter appertaining solely to the King, their master. They may be charged, like an Earl of Suffolk in former times, to negotiate a treaty of marriage; or, like somebody else, to present congratulations on the birth of an heir apparent, or to purchase a crown jewel. These would, indeed, be private agents, such as the President, not as President, but as an individual, may employ. But who would think for a moment of quartering such agents on the treasury? Sir, it is the employment which gives character to the agent. If sent on a high embassy, involving the commercial interests of the country, whether his character be publicly known or not, is wholly immaterial; and the very quotation from Martens, which he has relied on, is sufficient to satisfy the Senator of this: for, says that writer, "secret embassies are of many sorts."

If the court to which he is sent (speaking of one employed on a secret embassy) "be informed of the object of his mission, he ought to be granted all the inviolability due to him as minister." Did Mr. Rhind make known to the Porte his true character? Was he not recognised in that character? Did he not exhibit his credentials, enter into a negotiation, and conclude a treaty of commerce and navigation? Who doubts this? The fact that the treaty is ratified, speaks all that I ask. But, sir, in what a lamentable position is this argument of the gentleman placed by the President's own avowal, made but a day since in the face of the public? I hold in my hand the *Intelligencer* of this morning, containing a message from the President to the House of Representatives, covering a letter from Mr. Rhind on the subject of certain fine Arabian steeds presented to him by the Sultan. [Here Mr. T. read a portion of Mr. Rhind's letter, in which he uses the following language:] "Although this was evidently not intended to me (speaking of the present) in my official capacity, since the ministers were aware I could not accept them as such, still the gift was one that could not be returned without giving offence." And, but for his official capacity, said Mr. T., why should Congress be troubled with the subject at all? The mandate of the constitution interposes with the declaration, "that no person holding any office of profit or trust under the United States shall, without the consent of Congress, accept of any present, &c. from any king, prince, or foreign State." The President, then, acknowledges Mr. Rhind to have been an officer of Government; and, as I am indifferent about names, if gentlemen choose to unminister Mr. Rhind, if I may coin a phrase, I care not, so they do not deny that he was an officer of the Government. The language of the constitution embraces as well the case of an officer, however subordinate, as of an envoy extraordinary. But, sir, if

the circumstance of these persons having been engaged on a secret mission converts them into mere secret agents of the President, I beg to know what becomes of us when we go into secret session. Do we cease to be public agents while sitting with closed doors? True, we sit not then in public, but in secret; but what new credentials are made out for us? Away, then, with these flimsy apologies. Let us meet this question boldly and fearlessly. Let us tell the President that he has erred. Let us be true to ourselves, to our constituents, but, above all, to the constitution. What is the language of that high instrument? "He shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, and other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein provided for and established by law." The obligation to nominate is one thing, that to appoint another. An appointment cannot precede a nomination, nor can it take place without the advice and consent of the Senate. Did the President nominate these commissioners, these ambassadors, these official agents? Gentlemen can take their choice of terms. No. Did he appoint them? Yes, no one doubts it. Has he appointed them by and with the advice and consent of the Senate? No: for no nomination ever was submitted to the Senate. What, then, is the inference? It is plain and palpable; I need not express it. Sir, is not this enough to give us pause? Language cannot be clearer, sense more unincumbered, or injunction more obvious. These arguments apply as well to the ministers sent by Mr. Adams, so far as their true character has been made known, as to those sent by President Jackson. No one can sanction the one and disapprove the other, or disapprove the one and sanction the other. By a subsequent clause in the constitution, authority is given to the President to fill vacancies occurring during the recess. No man can mistake the true meaning of that clause—vacancies which occur between session and session of Congress should be filled by the President; but he is bound to nominate to the Senate during the session succeeding such appointment; and to guard and limit this power, the commission expires with such session. Any other reading would invest the President with unlimited and uncontrollable power. Can we possibly mistake a text so plainly, so clearly expressed?

I have read to the Senate the clause in the constitution relating to this subject. I have said that no man could mistake the meaning. I beg leave to recant that expression. There is one class of men who may construe it differently: statesmen, they call themselves; but no more like statesmen of former times "than I to Hercules." They belong not to the earth, nor deal with it justly; they spurn the ground on which they walk. Following the lights of a bewildered imagination, they rush into speculations, and, in their mad career, trample under foot rights natural and chartered. The constitution presents no barrier in the way. Its language, however simple and plain, is construed into an ambiguous text to suit their ruinous designs. Every thing is too plain and simple for their vast minds. They go for splendor; and what does not glitter, is regarded as worthless. May heaven, in its goodness, relieve us from all the tribe. Sir, I take the simple, unambiguous language of the constitution as I find it. I will not inquire what it should be, but what it is, when I come to decide upon it. The wisdom of our illustrious ancestors framed it; and when I am asked to exchange it for the policy of the hour, I answer, nay. No matter by what circumstances I may be surrounded—abused, slandered, vilified, as much as my bitterest enemies may please—this shall be my answer: Every day's experience satisfies me, that, amidst all the turmoil and confusion of parties, the first post of safety is, to stand by the constitution; the second post of safety is, to stand by the constitution;

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and the last post of safety is, to stand by the constitution.

The Senator from New Jersey [Mr. DICKERSON] cited, as matter of history, the nomination by the elder Adams, in 1799, of Mr. Smith, as minister to the Porte; for what purpose, I am at a loss to imagine. The appointment was made, but not accepted. In my conception, it operates disadvantageously to the recent proceeding.

When a boy, I learned that the elder Adams was the advocate of strong government. He had held up, by his writings, the British Government as the most stupendous fabric of human invention; and yet he deemed it his bounden duty to send no minister to Constantinople without previously submitting the nomination to the Senate. Was there any greater necessity for doing so in this instance than in that? The objects were the same. If it be said that secrecy was more necessary now than then, might not the message have enjoined secrecy? And is there any man here who would have betrayed his trust? But, sir, are the forms of the constitution to be disregarded, because the Executive may deem it proper to keep from the knowledge of the world its schemes of diplomacy? What is this but to make the Executive superior to the constitution?

With regard to the precedents relied upon in this debate, I have one answer for all of them; and it is, that, even if they were all in point, the constitution would remain unchanged. Shall we consecrate abuse? Shall we plead precedent to justify error? Is the legislation of Congress, or the action of the Executive Department, above the constitution? Shall the creature claim to control the creator? Pile precedent upon precedent until you make Ossa like a wart, and yet no sufficient justification is furnished for the Executive. Sir, I am willing to admit that these precedents may be urged, and I care not how successfully, in excuse of the President. They have misled others, and why not him? But in my opinion he has been misled; and it is my solemn duty to say so.

My colleague has anticipated the answer to all those cases, and it would be idle for me to tread upon the ground over which he has gone. They have no just application to the question now under discussion. Much stress is laid on the circumstance that treaties have been negotiated by the Secretary of State. Now, I do not mean to decide a question not before me, but I can well conceive a marked and strong difference between that case and this. The Secretary of State is an officer known to existing laws. He is nominated to, and appointed by and with the advice and consent of the Senate. He is charged with the diplomatic relations of the country. With ministers near this Government, it is his duty to carry on correspondence. He is the true constitutional channel through which the sentiments of the President are made known to foreign nations; and I can see no great impropriety in the President's investing him with power to sign a treaty which the Secretary has himself negotiated, and to exchange its ratifications. But, sir, to make that case parallel with the present, imagine that the President commissions him as a minister to a foreign country, without any nomination to the Senate; or, suppose he appoints him Secretary of State, without the sanction or authority of the Senate; then a case like that under discussion arises; and the answer to both is the same—the constitution forbids it.

I have expressed to you candidly my own convictions upon this subject; many gentlemen will, no doubt, take opposite views from those I entertain. If so, I know how to tolerate differences of opinion between men. Such Senators will, no doubt, be actuated by as honest intentions as myself. For myself, the path of duty is straight, and I shall walk in it. Shall I displease the President by doing so? If I do, I cannot help it. But I claim to follow in the footsteps of his example; and bright and

glorious is that example. When he exercised his veto over certain bills during the last session of Congress, he had my most unqualified applause. I have seen much in his career to applaud. The patriot who has shed his blood on the embattled plain in behalf of his country, will not hesitate to approve the effort which is made to save the constitution from the effect of an error into which he may have fallen. He ratifies no error of ours. The two Houses of Congress, no doubt with solemn convictions of both its expediency and constitutionality, pass a bill, which, in his estimation, infringes on the constitution; with Roman firmness he forbids its becoming a law. Shall we rival this example, or shall we be less faithful to the trust confided to us? The different departments of the Government are intended to check each other. In the Legislature each branch has a check upon the other, and the President on both, while each has a check on him. We will do our duty, then, as becomes us.

It is, however, repeated, that it is now too late to object: we should have objected to ratifying the treaty. I had hoped not to have heard this argument repeated, after the conclusive answer which was given to it by my colleague. When a treaty is submitted to the Senate, the only question which properly arises is, merely, is it good, or is it bad? If the first, it should be ratified; if the last, rejected. The President is invested with full power to negotiate all treaties; and when he asks an appropriation to the ministers employed in negotiating it, the question then for the first time comes up as to the legality of their appointment. Here, then, is our reason for not having discussed this matter in secret session, apart from all others. But, furthermore, two alternatives were presented, and we had a right to exercise a sound discretion in choosing between them. We would obviously take that which would produce the slightest injury. Again, it is said that we have taken to ourselves the benefit of others' labor, and we ought to pay for it. No one denies it. It has never been denied. But I take it that there is a manifest difference between an application made by the Government, and one made by an individual. The one addresses itself to our obligations of duty, the other to our convictions of what may be just or equitable. To sanction the first, is to approve the course which the administration has pursued, and to sacrifice principle. To respond to the supplication of the individual, is to obey the suggestions of a benevolent policy. The error of Government we will not sanction, but we will redress to the man the injury which that error may have produced, but it must be on his private petition or application. The Secretary of State would then be heard as a mere witness in behalf of the applicant, not as an officer of Government making a requisition upon us. I care not, however, for the mere form in which this thing is done, provided the great principle be saved; and, before I take my seat, I shall move an amendment which will save that principle.

Why, then, should we have been goaded into opposition to the administration by a perseverance in a course which we cannot approve? Why presented to the public in an attitude which we earnestly desire to avoid? Is it a part of the policy of the times? Heretofore—for we have differed from the President but upon one question of importance—we acted then, as we do now, upon high principles. We deemed it then, as the constitutional advisers of the President, our imperious duty to differ from him in opinion. The principle involved was intimately connected with the freedom of the press; we deemed it as hazardous to make the press the prominent subject of Executive favor, as of Executive displeasure. The influence of money is more irresistible than that of force. In this country there is no danger from the last; but the first is the lever by which free systems are overturned. We rested upon the good sense of the public

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for our vindication; and folded our arms in silence. We thereby gave the most conclusive evidence of our desire for the President's success in the administration of the Government. What was our reward? Were we treated with ordinary civility? We were declared to be in opposition to the administration. Hard names were bestowed upon us; abuse copiously poured out on our heads; our motives assailed and misrepresented; our designs represented as dark and evil. This language has been persisted in for the last twelve months. *Cui bono?* For the good of the President, or of the party to which we belong? Is this the way to attach high-minded men to any cause? Human nature, speaking almost audibly from the heart of all, answers in the negative. A new discovery was made. My colleague was represented as an old federalist, the moment he gave a vote consecrated, as I verily believe it to be, to the purest republicanism. The history of his life, exhibiting him as it did, reared in the very arms of democracy, was not sufficient to protect him. The circumstance of his being an actor in the spirit-stirring crisis of 1798-'99; of the part which he bore in that session of Congress which witnessed the retirement of the elder Adams from the Presidency; of the uniform consistency of his life in adhering to the governmental doctrines with which he set out; of the distinguished part which he bore in the late arduous struggle; nothing was sufficient to protect him from this charge, or shield him from the bitterness of these hostile attacks. For myself, I had nothing but a conscious integrity to plead in my behalf, and that availed me as little as the services of my colleague availed him. Our own constituents urged no complaint; on the contrary, I seriously declare that I have scarcely seen the man within the broad limits of Virginia, who did not approve our course. To use the language of one of her citizens, that "unterrified" commonwealth can never be operated on by causeless clamor. None of these attacks were made from thence, or from any part of the South. Nor did any come from the West. From whence then did they proceed? They came from the North, and in all their violence from one particular State. "Call you this backing of your friends?" Is this the mode to consolidate a party? It is a modern discovery, and unknown heretofore to the world. We could not justify it to ourselves, then, Mr. President, to remain silent on this new occasion on which we are compelled to differ from the administration. Our opinions and our arguments will go to our constituents, and I fear not the result of the verdict they will return.

This has been called a mere question of power between the Senate and the President. Sir, it is a question whether the constitution is supreme, and binding upon all. But if we were now forming the Government, I would add to the power of the President not even so much as would turn the scales by the hundredth part of a hair. There is already enough of the spice of monarchy in the Presidential office. There lies the true danger to our institutions. It has already become the great magnet of attraction. The struggles to attain it are destined to enlist all the worst passions of our nature. It is the true Pandora's box. Place in the President's hands the key to the door of the treasury, by conferring on him the uncontrolled power of appointing to office, and liberty cannot abide among us. In the language of Lord Chatham, this would be to inflict the *irremedicabile vulnus*. "Not poppy, or mandragora, or all the drowsy sirups of the world, could medicine" us "to that sweet peace" which we should thereby lose. No, sir; the glittering diadem is already studded with jewels, and ambition evermore urges its votaries to clutch it. What would it not be if you adorn it with blazing diamonds?

If, then, we stand alone, we shall oppose the principle which has now been carried into practice. It would be a proud distinction; but this will not be our fate. Indi-

cations have already been given of a contrary character, and I hail them as a sure augury of success.

In conclusion, Mr. TYLER offered the following proviso, by way of amendment to Mr. KANE's proposition:

"*Provided, always,* That nothing in this act contained shall be construed as sanctioning, or in any way approving, the appointment of these persons, by the President alone, during the recess of the Senate, and without their advice and consent, as commissioners to negotiate a treaty with the Ottoman Porte."

Mr. BROWN, of North Carolina, next rose, and observed, that, when he had taken his seat that morning, he had entertained but little expectation that he should have entered into the discussion of the subject then under consideration; but, unprepared as he was, the extraordinary course which it had taken had induced him to depart from that determination, and to claim the indulgence of the Senate, succinctly to present his views in opposition to the motion which proposed to strike out the appropriation making compensation to the commissioners appointed by the President of the United States to negotiate a treaty of commerce with the Turkish Government. He objected also to the amendment proposed by the Senator from Virginia, [Mr. TYLER,] because its adoption would, in effect, as he conceived, charge the Executive with a violation of the constitution, by the appointment of commissioners to treat with the Turkish Government without the sanction of the Senate—a censure, which he deemed not only uncalled for, but wholly unmerited: uncalled for, because the present was not a fit occasion to express it, if at all deserved; unmerited, because, in his opinion, the exercise of the power by the Executive was in pursuance of the constitutional authority, which appropriately belonged to that department of our Government.

We had, in substance, been told, if the Senate sanctions this proceeding, by voting for the appropriation, without protesting against the alleged usurpation, that the dignity of this body will be impaired, and that it will be surrendering one of our most important powers to the Executive branch of the Government. He claimed the right to interpret the provisions of the constitution for himself, and could not admit that it had been confided to the exclusive guardianship of any particular members of that body. Nor could he permit himself to doubt that all, when in their opinion the occasion called for it, would unite in repelling any attempt, from any quarter, which was in derogation of the authority and character of that branch of the Government.

The honorable Senator from Virginia, [Mr. TYLER,] who has just addressed the Senate, and whose eloquence is always heard with pleasure and attention, had remarked, that he represented a State whose stern independence could not be brought to pay homage to power, and the frankness of whose citizens would not permit them to characterize acts but by their proper names; and if his colleague and himself had called the power which the President of the United States had exerted, by the appointment of commissioners to negotiate a treaty of commerce with the Ottoman Porte, a lawless and unconstitutional exercise of power, that it was because they had been accustomed to speak in the language of frankness and sincerity. Sir, said Mr. B., I cheerfully subscribe to the honorable mention which the gentleman has made of the State of Virginia: her past history is rich in the renown of her distinguished warriors and statesmen: she has, on all occasions, been ready to assist in vindicating the character of the nation from foreign insult, and has warned, with a prophetic voice, her sister States against the dangerous and insidious encroachments of the Federal Government on their rights, which were so well calculated to destroy the beauty and harmony of our admirable system of Government; but I must be permitted to remark, said Mr. B., that I cannot discover any thing in this act of the Presi-



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dent, calculated to alarm the fears of those most devoted to a rigid construction of the constitution, of which number he professed to be one.

He would now proceed briefly to examine the transaction which had been so severely animadverted upon. The facts connected with it were briefly these, and had already been ably discussed by the gentleman from Louisiana. When the present administration entered on the discharge of its public duties, it found that the preceding administration had appointed confidential agents to ascertain if a treaty could not be made with the Turkish Government, and to effect that object if it could be done. This mission having failed to accomplish its purpose, and one of the commissioners appointed under the late administration having returned to the United States, the President, anxious to open new and lucrative channels of trade to the commercial enterprise of our citizens, appointed Mr. Rhind and Captain Biddle, in conjunction with Mr. Offley, to effect, if practicable, that which the late administration had failed to do. To this it was objected, that it was an assumption of power, in violation of that provision of the constitution which declares that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law," &c. He readily conceded that the President could not constitutionally appoint a "public minister" or "ambassador," without first consulting the Senate, and their concurrence had in the appointment, unless to fill up a vacancy which had occurred in the recess of the Senate. But in the appointment then under consideration, in which the Executive had appointed mere confidential agents, he thought he could perceive an obvious distinction. They had been appointed for a special, designated purpose, not clothed with the usual powers of public ministers, unprotected by the immunities and privileges which, by the law of nations, were extended to that class of ministers contemplated by the constitution. Where, then, was the infringement of the constitution, which had been so much reprobated? By that instrument, the management of our foreign relations was peculiarly confided to the Executive Department of the Government. The power of appointing confidential agents to confer and treat with foreign Powers in relation to commerce, was fairly deducible from this duty imposed by the constitution on the President. It was unreasonable to suppose that, when a duty was required of an officer of the Government by the constitution, it withheld from him the power to employ the necessary means for its accomplishment. Nor would its exercise be attended with the calamitous consequences which we had heard so much deprecated. It could not, in any case, unite us, either by a commercial or political connexion, with foreign nations, without the previous consent of that body, as the concurrent authority of the Senate in the ratification of treaties would always interpose an effectual barrier against acts of Executive indiscretion, or schemes of ambition. Nor would the rejection of a treaty by the Senate, thus negotiated, have a tendency to embroil us with foreign nations, as had been argued; for every Government with whom we may have diplomatic relations, either is, or is supposed to be, cognizant of the treaty-making power under our Government; and a refusal by the Senate to ratify a treaty could not afford any just ground of complaint or hostility against us.

Passing from the arguments fairly to be derived from a proper construction of the constitution, what, he would ask, had been the usage of almost every administration, as he believed, from the origin of our Government down to

that period? He confessed that he attached but little weight to precedents, unless they were sanctioned by long and uninterrupted practice, and were authorized by a fair construction of the constitution. The practice of appointing commissioners of a similar character with those who had been commissioned to negotiate with Turkey, had commenced with General Washington; he had, in the early part of his administration, appointed commissioners to negotiate a treaty of peace with the Dey of Algiers, without a previous nomination to the Senate. Subsequently, Mr. Jefferson had appointed commissioners to treat with the Tripolitan Government; and, in 1808, he commissioned Mr. Short as minister plenipotentiary to the court of St. Petersburg, in the recess of the Senate, which was not to fill a vacancy, as the United States had not before been represented by a public minister at that court. Much as he revered the memory of Mr. Jefferson, whose great and invaluable services to his country, as a statesman, had not, in his opinion, been surpassed by any of his cotemporaries, yet he did not believe that the Executive power was, by a proper construction of the constitution, competent to commission a public minister, without the advice and consent of the Senate, unless to fill a vacancy which happens in the recess. This instance has been adduced of the exercise of the appointing power by President Jefferson, to show the great diversity of opinion which had heretofore existed among the most eminent patriots and statesmen, in relation to its extent, and not that he considered it at all analogous to the present case. It showed that a power much higher and much more questionable had been exerted under an administration deservedly eulogized for its almost uniform adherence to a limited construction of the powers of the General Government.

The two first cases to which he had adverted, showing the exercise of the same power in the early administration of our country, had occurred, it is true, when a state of war existed between this country and those to whom commissioners were deputed to treat. The gentleman from Virginia [Mr. TAZEWELL] had maintained the proposition that the President could rightfully exert this power in a state of war, though not in a time of peace, for the reason that the object for which war is carried on is the attainment of peace; and that the President may institute a mission without consulting the Senate to effect that end. Mr. B. said he could not yield his assent to this argument; for if the President was vested with authority to appoint commissioners in time of war, it followed as a consequence that he could exert the same power in time of peace. When public functionaries look to the constitution for a warrant for the exercise of power, it was an admitted rule of construction, where a provision of that instrument expressly conferred powers, as in that before quoted by him, which gives to the President the power of appointing ambassadors and other public ministers, with the advice and consent of the Senate, "and to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session," that resort could not be had to any other clause to enlarge that power by implication; and the clause expressly conferring the power could alone be resorted to for the purpose of ascertaining the true extent of the authority granted. The constitution did not vary with the circumstances of peace or war; it did not hold different language on different occasions. He had been taught to believe that the principles of that instrument were fixed and inflexible, and did not bend to any emergency, however pressing, or any necessity, however high.

Mr. B. said he would now proceed to examine the analogy which the gentleman from Virginia [Mr. TAZEWELL] had endeavored to trace, and, as he thought, unsuccessfully, between the principles avowed in President Adams's message in relation to the Panama mission, and the case then under discussion. The gentleman who had preceded

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him in this debate, had reiterated the same objection, and had read extracts from the speeches of some of the members of the present cabinet, to show that their course, on that occasion, when members of the Senate, was wholly irreconcilable with the course which the Executive had pursued, in appointing commissioners to treat with the Turkish Government. Mr. B. said, without commenting on the essential distinction, in many respects, between the characters of the ministers which President Adams had asserted his power to commission to attend the Congress of Panama, and the commissioners appointed to treat with Turkey, he would ask permission to read a part of the speech delivered in the Senate by the Senator from Virginia [Mr. TAZEWELL] on the memorable discussion in relation to the Panama mission. After commenting on the case, in which General Washington had appointed commissioners to treat for peace with the Dey of Algiers, he proceeded as follows: "The next remark I shall make upon it is, that, even according to the representation given of it, it was the case of an agent sent to a barbarian people, who were not then, and have never since been, recognised as forming any component part of the family of civilized nations. Let me not be told that the constitutional power of the President is the same, whether exerted in reference to a savage or civilized nation. We all know that this is not so. No appointment of a minister, who has ever been employed to negotiate for peace, or for any thing else, with any Indian tribe, whether dwelling within or without our territory, whether Osage or Seminole, has ever been laid before the Senate for their consent. They are all considered as agents of the President, and not public ministers of the people; and all our intercourse with barbarians must, of necessity, present anomalies, from which no principles can be inferred. I will not go into reasoning to show why this must and ought to be so, although it would be easy to show it. I merely state the fact, which is conclusive, to prove that the case of a mission to Algiers, or to the Choctaws, can never be a precedent to justify a mission to Panama." Mr. B. said, that in the remarks which he had read from the speech of the Senator from Virginia, he thought the distinction which he had taken between the case of the Panama mission and the one in question was fully sustained, and that it was clearly conceded that the President could, constitutionally, appoint agents to negotiate with a barbarian nation, without the previous consent of the Senate. He would ask, where was the distinction as to the power to send a mission to the then existing Government of Algiers, and that sent, under the present administration, to the Turkish Government? If the principle holds good in the one case, it appeared to do so equally in the other. If the President can exercise the power in reference to any one nation of people, whether savage or otherwise, it appeared to him to follow plainly that he could do so in reference to all, as the constitution did not vary the power of the President to appoint commissioners to treat with foreign nations, according to their degrees of barbarism or civilization, but afforded a fixed rule as to the power of the President, applicable to nations of every condition.

Mr. B. said he had heard with a degree of surprise which he could not conceal, in the course of this debate, an attempt to discriminate between the Chief Magistrate and his cabinet advisers, attributing all responsibility to them in relation to the Turkish treaty. This was, indeed, a novel doctrine in this country, and one which he would venture to say was not in accordance with the theory of our Government. The doctrine of Executive infallibility was unknown to our form of Government; the President was alone responsible for his official acts to the people of the United States, and, he believed, would never seek to escape responsibility in the discharge of his public duties: he must, therefore, be permitted to say that he did not think the remark of the gentleman from

Virginia [Mr. TAZEWELL] was to be received as a very flattering compliment to the President, when he expressed his perfect confidence in the honesty of his intentions, but believed that he had been deceived by his ministers, who were supposed to have advised him to this course. It was a compliment to the heart at the expense of the head; and he would add, that the course of the President since he had filled the station which he then occupied, had not only been honest, but, in his opinion, marked by an enlightened policy, deserving the approbation of the American people. Mr. B. said that he did not stand there as the apologist of the President of the United States; and while in the exercise of his duties as a member of that body, he should never shrink from the freest examination and inquiry into the conduct of public officers, he should at the same time feel it equally his duty to give a fair and liberal support to the administration, when their measures were, in his estimation, conducive to the public interests. He believed that a candid review of the course pursued by the Chief Magistrate of the Union, since his elevation to that station, would triumphantly acquit him of a disposition to assume powers not delegated to him under the constitution. He had, at the last session of Congress, given a decisive proof of his determination to preserve the constitution, so far as it depended on his authority, by refusing to sanction large and extravagant appropriations of the public money to objects unauthorized by the powers granted to the General Government, and more recently in the course which had been pursued towards the State authorities in relation to the Indian tribes; and the principles avowed in the President's message on that subject were gratifying proofs that the reserved rights of the States of this confederacy would be respected under this administration, and the action of the General Government restrained within its appropriate sphere. Mr. B. concluded his remarks by expressing his thanks for the indulgence which had been extended to him.

Mr. TAZEWELL again rose in reply to Mr. LIVINGSTON. The honorable Senator from Louisiana, said Mr. T., has again undertaken to chide me for the unmeasured language in which I have described the act of the Executive, concerning which I spoke when I last addressed the Senate. I can readily conceive that the strong terms I employed to characterize this transaction may not be very familiar to the fastidiousness of courts or palaces, where the dulcet sounds of approbation and admiration only are commonly heard. But as my words denote precisely the opinions I desired to communicate to those I addressed, and were merely the abbreviation of the conclusions to which I thought I had entitled myself, by the arguments I had used, I was not aware that I had violated any rule of etiquette here, in thus summing up the reasoning upon the subject; I had proved, at least to my own satisfaction, that the constitution furnished no authority to the President for what he had done; therefore, I felt myself justified in speaking of this act as unconstitutional; and as lawless. If such is its true character, all must concede that a power exerted by a President without warrant or constitutional grant is a usurpation on his part; and as such a usurpation in this case was a direct and plain infringement of the privileges of the Senate, it must be a gross violation of the constitution, in flagrant derogation of the rights of this body. To the Senate I certainly owe no apology for the earnest appeal I made to them, to induce them to vindicate their violated rights, to prove themselves faithful depositaries of the trusts confided to them by the constitution, and never, by a refusal to assert their privileges, to countenance the idea that they could be guilty of a base surrender of the rights conferred upon them by the States they represent, which rights so conferred are in truth but duties imposed by our constituents for their own wise purposes. This would be a dereliction of duty on our part, which, however much it may be desired by any

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other department of the Government, could scarcely find justification or apology here or elsewhere.

In expressing these strong opinions, I certainly neither measured nor weighed the force of the language necessary to convey them. But if this or any other honorable Senator would have been pleased to furnish me with the proper courtly phrases in which I might have communicated my thoughts, I would willingly have adopted them, provided they would have expressed my opinions with equal precision. I doubt much, however, whether I should have escaped the censure of the honorable Senator from Louisiana, if I had borrowed my terms even from his own works, or from the precedents furnished by the speeches of some of those by whom the President is now surrounded, which speeches were delivered by them during the Panama debate. President Jefferson, now so much eulogized by this honorable Senator, was not always regarded by him, I believe, as entitled to such encomia. One at least of the acts of this President was characterized by this Senator in language as unqualified as any I have used; and a reference to the speeches to which I have alluded will furnish many examples of much stronger phrases than any I have employed, and this too in relation to the same subject. These terms were then applied, however, to the assertions of President Adams; and I have spoken of the acts of President Jackson, *et tempora mutantur*, although the constitution remains the same.

But, sir, let no one think that I mean to justify or even to excuse what I have said, by the examples of others, or even of the President himself. My justification is, that whatever I have said, I thought; and that which I think of the public acts of public men, I feel myself at perfect liberty to speak here, whenever a proper occasion arises so to do. In this case, I neither sought nor made the occasion. I would have avoided it if I could. But the President has chosen to present his application to this body, asking us to appropriate the money of our constituents to redeem his pledge of the public faith, plighted without our sanction or any constitutional warrant, and I am so called upon to approve the act. Forced thus to inquire into the character of that which has been done, I am constrained to speak of it as I think it merits. I have done so, and, in so doing, have done but what my duty required.

Mr. President, this debate has taken the precise course which I foresaw it would take. The advocates of this appropriation, instead of meeting or controverting any position I have maintained in reference to the proper construction of the constitution, have endeavored to justify what has been done by the precedents they cite, and the practice they wish to show to have been settled. The Senator from Louisiana alone has expressed any doubt as to the correctness of the interpretation which I have given of the constitution. At first, this doubt was rested upon an inversion and transposition of the terms used in the instrument.\* This attempt, however, seems to be abandoned by him; and he now seeks to attain the same object, by inserting a stop where there is none. To this new process for changing the meaning of its provisions, I have no other answer to give than this—blot out all the stops, and both the learned and unlearned will replace them as they now are, because they will still concur in reading the instrument as I have read it, and in construing its language as I have construed it. According to this construction, I repeat, the President alone may nominate, but, by and with the advice and consent of the Senate, only, can appoint to any office; and when vacancies happen during the recess of the Senate, the President alone may fill up such vacancies, by temporary commissions only. Here I will leave this suggested doubt, confident that it will never ripen into certainty any where, but in some hot-bed prepared to force its growth unnaturally.

The Senator from Louisiana next draws a distinction

between the power of the President to make treaties, and his power to make appointments to office. This distinction he seeks to support by a reference to the precedents he has cited. This distinction is certainly new. If to be sustained at all, it must be by the force of the precedents only, for the words of the constitution as explicitly restrain the one power as they do the other, and in precisely the same mode. Each of these powers is given to the President; but, in the very grant itself, they are both required to be exercised by him, "by and with the advice and consent of the Senate" only; and the only difference between them is, that, in making treaties, the concurrence of two-thirds of the Senators present, and, in making appointments, the concurrence of a majority only is required. Then, is it not strange, that, in the very case where the constitution imposes the strongest restraint, it should be contended that none exists; and yet should be admitted that, in the other case, the restraint is effectual, although this restraint is imposed by the same words repeated in the very next member of the same sentence?

But, sir, how are treaties to be negotiated? Certainly by some officer of the Government; and this, whether they are negotiated at home or abroad. For it is asking of us too much, when we are required to admit that he who has the commission of the Government, which commission is signed by its Chief Magistrate, authenticated by its great seal, and wherein is expressed, that, in consideration of the high confidence reposed in him, authority is thereby given by him to pledge our faith and honor, is not an officer of the United States. So that the question still recurs, can the President alone, without the advice and consent of the Senate, create such an office? I say create such an office; for when the commission is granted to negotiate a treaty abroad, with a nation at whose court we have never had any representative, the office is created: for, as I have shown, there is no pretext for saying that such an office is then vacant, or that the President, in making the appointment to it, is merely filling up a vacancy, and a vacancy which has happened, too, during the recess of the Senate. Now the Senator from Louisiana admits that the President alone cannot make an original appointment to any office. What, then, becomes of his distinction between the power of the President to make treaties, and his power to make appointments, in all cases where, to make a treaty, it is necessary to make an original appointment?

Sir, the precedents may be searched from the birth of this Government to the day of the date of the Turkish treaty, and but few cases will be found of a treaty negotiated by any other than a diplomatic officer of the United States, whose appointment, if an original appointment, had not been made by and with the advice and consent of the Senate. The few cases existing, in which this does not appear, are either cases occurring, "*flagrante bello*," with the Power treated with, or cases of compacts entered into with piratical hordes or savage tribes, the dependents or tributaries of your own, or of some other sovereignty. All the precedents referred to by the Senator from Louisiana are of this description. These precedents, therefore, do not touch or apply, to the question I have discussed, and which is presented in this case, unless we are prepared to say that the principles of war justify the practice of peace, or that the usages which necessity requires to be adopted in our intercourse with barbarian Powers and dependent States, constitute the rule which ought to regulate our intercourse with the oldest, and most solemnly and most universally recognized sovereignties on earth.

Even this the Senator from Louisiana would have us to do, for he ridicules my ideas that the existence of war gives to the President power that he may not rightfully claim in peace; or that there is any difference between

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the piratical Barbary hordes and the Ottoman empire. Now, suppose I should even admit that the distinction which I drew between the cases of war and peace was without any just foundation, is it fair to infer the general rule of peace from the exception of war? Or is it wise or safe to contend, that what is acquiesced in without murmur, during the storm of war, is therefore right, and may be properly repeated in the calm and "piping time of peace." I pray the Senate to think well of the consequences which may and must result if they sanction such doctrine as this.

Peace gives the rule, and war the exception to it. Nor is it of little consequence to the present argument, whether the exception be *de jure* or *de facto* only. It is but an exception in either case; and we reason erroneously when we seek to find the rule in the exception to it. But if it be conceded that the exception exists *de jure*, and is established by the constitution itself as an exception, then this exception proves the general rule to be different. Now, I contend that the exception does exist *de jure*; and that in war the President may lawfully negotiate a treaty of peace with the enemy, when, where, and how he pleases, and by the intervention of whomsoever he thinks proper to employ for that purpose. I prove it thus:

The legitimate object of all war is peace. To attain this desirable end whenever war exists, the constitution gives to the Executive every lawful means for its accomplishment. Hence, he may lawfully order, and by his subordinates effect, the burning of towns, the sacking of cities, the devastation of the enemy's country, and the slaughter of its inhabitants; for, alas! sad experience has taught mankind, that such are the necessary means by which alone most commonly war can be terminated, and the desirable end of peace attained. Now, surely, if the Executive may lawfully do all this for such an object, he may attain the same required end by other means less destructive, and more consonant to the dictates of humanity. If he may lawfully negotiate for peace by blood and carnage, may he not negotiate for the same object by argument and persuasion? It is true you call the one battle and bloodshed, and the other negotiation, yet each of them is but a means for the accomplishment of peace, the great and only justifiable end of all war; which end it is the bounden duty of the Executive to effect by all proper means, whenever war exists. And what at last is this treaty of peace, until it is ratified by the proper authority, that is to say, until, in this country, its ratification has received the advice and consent of the Senate? It is little else than a mere armistice. Now, none can doubt that the Executive may lawfully conclude an armistice when, where, and how he pleases, and this under his general power to conduct the existing war in that mode which, in his discretion, peace, its only justifiable end, seems to require.

Here, then, is one answer to all the precedents cited by the Senator from Louisiana, of treaties made with the Barbary Powers during the administration of our two first Presidents. At the time all these treaties were negotiated, war existed between these Powers and the United States. Moreover, two of these treaties (being all of this description that were concluded during the administration of Washington) were concluded by Mr. Humphreys, an acknowledged diplomatic officer of the United States, who had been previously and regularly appointed our minister to Portugal, by and with the advice and consent of the Senate. In concluding these treaties, too, Mr. Humphreys acted in pursuance of the instructions he had received, the substance of which instructions had been previously submitted by the President to the Senate, and had received their approbation so far back as the 8th of May, 1792, as our journals show. These cases, then, are but cases of treaties made by a proper officer of the

United States, whose appointment and whose instructions had previously received the confirmation of the Senate. As to the mere *internuncii* employed by Mr. Humphreys himself in his intercourse with the Barbary Powers, and who acted under appointments from him, and not from the President, I presume it cannot be necessary for me to say a single word. Doubtless, the minister might employ what messengers, interpreters, or subagents, he thought necessary, and the obligation of the instrument, put into form by them before it received his assent, could neither be strengthened nor weakened by their signature, whether it was vanity or necessity that subscribed it.

The same answer will equally apply to the cases of the treaties afterwards concluded with some of these same Powers during the administration of President Madison. War again existed between the United States and these Powers, when these treaties, too, were concluded. Nay, such is the capricious and rapacious character of these corsairs, and such their ignorance or contempt of the provisions of the public law, and the usages of civilized nations, that it is difficult to determine when war does not exist with them. It is this very circumstance which constitutes one of the great causes why your intercourse with them always has, and always must produce many anomalies, from which no principle or rule can properly be deduced. But if I wanted an apt illustration of the truth of my position, that the power of conducting a war necessarily includes the power of concluding it by negotiating for peace, I should find it in the circumstances attending one of these very treaties. The gallant Decatur had just captured the Algerine squadron. Hastening from the scene of his conquest, he presented his victorious fleet before the port of Algiers, ready to fire upon the city, and to lay it in ashes, if necessary. To save themselves from the imminent danger, and to gain time for preparation, the enemy wished to parley, professing a wish to negotiate a peace. His answer to their proposition was, "Here are the only terms of peace I can accept. Sign and ratify this treaty, and our nations are friends again; reject it, and I must do my duty. I give you two hours to decide." Within the time prescribed, the treaty was returned, duly executed on their part; and hence was concluded, on board of his own flag ship, the United States' ship *Guerriere*. Now, sir, will any one say that, in thus acting, this hero violated any precept of the constitution of his country? And, if not, it surely cannot be pretended that the President could so offend, by authorizing that to be done, which, when done in pursuance of his orders, was rightfully done. Yet, if rightfully done, war must give power to the Executive that in peace is forbidden.

Again: Is it correct to say that there is no difference between the piratical hordes of Algiers, and Tunis, and Tripoli, the professed tributaries and acknowledged dependents of the Sublime Porte, and the Ottoman empire itself? This is an assertion which I confess I did not expect to have heard made in the Senate of the United States. My historical recollections do not deceive me, I think, when they lead me to say that the Ottoman Government is now the oldest in the world. While every other known Government has been oftentimes changed, destroyed, and reconstructed, that simple despotism, sustained as it is, alike by religion and by force, has ever remained unaltered from its creation, now nearly twelve centuries ago, until this hour. Before the discovery of America by Columbus, the seat of the Turkish empire was fixed where it now is, at Constantinople; and never since has that capital been profaned by the presence of any foreign foe. Almost two hundred and fifty years ago, all Europe trembled at its onward march; and the most powerful of European sovereigns fled from the smoking ruins of his capital, Vienna, to escape this enemy. Much more than a century since, Bender, one of its distant pro-

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vincial towns, offered a safe asylum to the unfortunate Swedish monarch, when flying from the disastrous field of Pultowa; and Turkish faith and Turkish power would never permit that asylum to be violated. Deprived since of some of its domain by the Russian arms, it nevertheless still ranks as one among the principal Powers of the world, having been always recognised and always respected as an independent and great nation by every State in Christendom. It does not seem very becoming in us, almost the youngest of the great family of nations, to wish to degrade this ancient and powerful sovereignty, not less remarkable for the proud simplicity, than for the strict honor and fidelity of its character, (and this, too, at the moment when we have just concluded our first treaty with it,) by comparing it with its own tributary dependents, whose piratical pursuits, and open contempt of all the usages of civilized States, have ever prevented every Power from recognising any of them as an equal sovereignty, or trusting among them any other representative than an humble consul. As well might we compare the Russian Government with some wretched band of Esquimaux, or horde of fierce Tartars, dwelling within its limits; or the Government of the United States with the Cherokee nation, or the tribe of Winnebagoes, dwelling within ours.

It is strange, too, that this assertion should be hazarded now, when it is proposed by the very amendment before us to appropriate a sum of money for the new mission to the Sublime Porte, which sum far exceeds in amount the aggregate of all the sums proposed to be appropriated for our missions to Russia, to France, and to Great Britain. To justify this appropriation, a list of the foreign ministers of the different nations of Europe, now accredited at the Turkish court, is sent to us, which list presents a diplomatic corps that, in rank, in the number of States represented, and in the compensation granted to these ministers, far exceeds any such corps assembled at any other court in the world! Yet, sir, that nation, at whose court princes or noblemen of high rank have not felt degraded to appear as ministers, and whose sovereigns intend to honor them by such appointments, is in the Senate of the United States to be sunk to the level of its own tributaries, to whose castles none other than a consul has ever been sent, and this for the most obvious reasons.

The case of treaties concluded here by a Secretary of State, the Senate must at once perceive, touches not the question I have presented. No one can doubt that he is an officer of the United States, who being charged by the law of his creation with the superintendence of all the foreign relations of the country, may very properly be instructed by the President to negotiate a treaty here. In his case, the power given to him has no other effect than to charge the old office with a new and very proper duty. It creates no new office in him, as we all know; for although we have heard of pay for constructive journeys never performed, yet even the persons who thought themselves entitled to such compensation, have never presumed to ask for constructive "outfit and salary" for the performance of this new duty merely. It would be absurd, too, to say that the full power given to the Secretary of State to negotiate a treaty here, could entitle him to any of the privileges and immunities accorded by the public law to such as are sent abroad with such a power. It is this, at last, that constitutes the true test whereby to ascertain whether the agent appointed to negotiate a treaty is an officer of the United States, in virtue of such an appointment. For as the immunities conceded by the public law are official privileges merely, he who acquires none such in virtue of his appointment to negotiate a treaty, is not thereby made an officer. But wheresoever the appointment is designed to draw after it pay at home, and immunity abroad, then it creates office. Now such is the

case of these commissioners; and such never was the case of any Secretary of State.

I have to notice but a single other argument of the Senator from Louisiana. He tells us that this was not a new mission, for it had been previously established by the last President in the appointments of Messrs. Crane and Offley, made by him in like manner, and for the same purposes with the present. Sir, from this day forward, let us not repeat the phrase and promise of "reforming the abuses which had crept into this Government." It is high time we should drop it, when honorable Senators think they justify a violation of the constitution by the present Executive, by regarding it as a mere continuation of the usurped authority of his predecessor. The question we have to decide is, whether the constitution authorizes the President to create a new office, without the advice and consent of the Senate, by instituting a mission to a nation with which we never before had established any political connexion or diplomatic relation. In answering this question, it is gravely said that the present President has not done so, because such a mission was secretly and ineffectually attempted to be established by his predecessor; and this secret and vain effort to strip the Senate of their highest privilege at that time, sanctifies and justifies the actual deed afterwards done. Much better would it be to say at once, that because President Adams publicly proclaimed in the Panama message that such a power was "within the constitutional competency of the Executive," therefore it must be so. But as this argument would scarcely find favor any where now, it is deemed better to rely upon the secret and ineffectual attempt, rather than upon the open and avowed opinion of this President. When President Adams publicly announced this opinion, its correctness was as publicly denied and controverted here; and surely his hidden acts, which could not be censured, because they were not known, are even of less weight as authority than his declared opinions. What may be the weight and authority of his opinions upon this subject now, I know not, but I well know how they were regarded by some formerly; and at the very time, too, when this act of his was secretly done. My opinions upon this subject then coincided with those entertained by others to whom I have alluded, and mine certainly have undergone no change since.

Mr. LIVINGSTON again rose. Both the Senators from Virginia, said Mr. L., have thought it extraordinary that any observations should have been made on the terms in which it was deemed proper to stigmatize the conduct of the President of the United States, and by anticipation that of those who should support him—terms which they say the occasion justified, and which the frank, independent discharge of duty required. They are inspired, they say, by the genial warmth of their Southern sun, and accustomed by the habits of their country to call things by their names; and when they see usurpation, they must call it by that name. And the gentleman who last addressed you [Mr. TAZEWELL] has requested me to furnish him with a courtly phrase (so I think he called it) that should express his idea without offence. Far be it from me! Far from me the presumption of endeavoring to restrain the noble spirit of independent zeal that animates those who make the accusation, fostered as it is by the influence of climate, and strengthened by habits of freedom of speech. Far from me the vanity of thinking that any phrase that I could offer would be so acceptable as those which the Senator's duty required, and his sense of propriety has sanctioned. I am as fully conversant with courts as either of the Senators. I, too, am a republican; I, too, though not born under a Southern sun, am in the habit of boldly expressing my thoughts; and when I hear charges of the most serious nature that can be made, expressed in the most unqualified language, and I think those charges unfounded, I must take the liberty to say so. Yes, sir, and



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*Turkish Commission.*

[SENATE.]

the more unacceptable liberty of proving it, as I trust I have done. Though words are things, they are not the words of the accusation that I blame; it is the groundless accusation itself. It is the intolerant denunciation of all who cannot see unconstitutionality or usurpation in the acts complained of. I said, sir, that the objections now raised were new; that for the first time this charge had been made against a practice and a construction that was as old as the Government itself. This is denied; and the debates on the Panama mission are referred to. Sir, I anticipated this objection, and have shown that the objections then were two, to the nature of the mission to take part in the debates of a deliberative assembly; and to an appointment of a public minister on a new mission without consulting the Senate: and I am warranted in repeating that the present accusation proceeds from a new light, that never before shone on the mind of any of our predecessors; but, admit the Panama debate to be an exception, it is but as of yesterday, compared with the sanctions of the contrary practice.

My construction of the constitution, as to the power of appointing in the recess, is discarded with the single observation, that it is bottomed on an assumed transposition of words in the clause. Not so. It stands on stronger grounds. The evident intent of the framers of the constitution—the contemporaneous exposition; the uninterrupted and unquestioned practice. The force of that practice, in its several divisions, has been attempted to be weakened: 1. As to the treaties made by the Secretary of State, by saying, as is most undoubtedly true, but is most fatal to their argument, that they were made under the powers which the President has to make treaties. Sir, that is the very power to which we refer to justify the appointment of the commissioners. Ay, but say the gentlemen, he may appoint the Secretary of State, but not commissioners. Why? Because he is Secretary of State; and they are commissioners. This may be a satisfactory argument to those who use it; but I must be permitted to think and to say, that it appears rather inconclusive. The Secretary of State has the management, *ex officio*, of our foreign negotiations, under the direction of the President; but without that direction, in the form of a plenipotentiary commission, he has no right to make a treaty. Such a commission is always delivered to him when he is directed to enter into or negotiate any compact with a foreign minister. It is made out in form—and from it he derives his sole authority—just as in the case of Mr. Humphreys, which I quoted in the beginning of this debate. He was a minister plenipotentiary to Portugal; but a negotiation with Algiers was desired, and he was authorized, by a new commission, as formal in all respects as that by which he was appointed to Portugal—yet he was nominated to the Senate as minister to Portugal—but not to Algiers. Why? Because the first was a permanent, the last only a temporary appointment. Because, in the first, he was a public minister—in the last, only a secret agent with full powers. Because the President had a right to give what character he chose to his agents, and chose to call him in one a public minister, and nominate him as such; and, for satisfactory reasons made him in the other, his mission to Algiers, a commissioner, with full powers, and did not nominate him. But, to put an end to all cavil, on the ground that the appointment of the Secretary of State as a plenipotentiary was not to be governed by the same rules that apply to the appointment of other persons, let us suppose the strong case of a law declaring that, in all treaties with foreign Powers made in the United States, the Secretary of State should be the person employed to make them; would the President's constitutional right to make treaties and name agents to make them be affected by such a law? Could the Secretary of State under it, without a special commission, make any treaty? And if he were nominated to the Senate to

perform that duty, would not they, notwithstanding the law, have a right to reject him? The law cannot control the constitution. The office of Secretary is created by the law of Congress—that of minister, by the law of nations. The appointment of one is regulated by law—that of the other, by the constitution: therefore, no law can control the powers of the President or the Senate; and the Secretary cannot be a minister, but by virtue of a special appointment. That special appointment has been uniformly given by the President, without, in a single instance, submitting it to the Senate; and the unquestioned practice proves that temporary appointments of commissioners may rightfully be made without nominating them to the Senate. It has been uniformly done in negotiations at home, and, if I understand both gentlemen, rightfully done; but, without the slightest reason for the distinction, they say it cannot be done abroad. But when I take the laboring oar, and show the same uniform practice in missions abroad, how is it repelled?

First, in case of plenipotentiaries to treat of peace. This is ushered in by an encomium from the Senator who last addressed you on the diplomatic law of nations, and he lauds it particularly for a character which I never before heard attributed to it—its great certainty and precision. I had thought that, on the contrary, there was much contrariety of opinions as to many of its provisions; that, as it was made up of usages, treaties, and the changing opinions of writers, it was not only uncertain from its nature, but that the principles most generally acknowledged were undergoing a daily change, with the advancement of civilization, and the new political arrangements of the world. I thought so—but this was owing to my ignorance, for the Senator tells you that although it may appear to be the case to superficial observers, the order and beauty, and, above all, the certainty of the system, open themselves to those who are proficient in the science. I am not advanced to this degree of perfection; the Senator is; and to what truths in the system is this encomium the prologue? What are the certain maxims he has found applicable to the present case, in the precise pages of this law? First, a confirmation of his former assertion, that plenipotentiaries to treat of peace were but officers sent to regulate the terms of an armistice; and that when the President sends such ministers, he does it as commander-in-chief of the army; that the treaty-making power has nothing to do with it. Now, sir, I must say, that if this be the best proof that can be furnished of the certainty of the code of nations, it will fare ill with its reputation in this respect, for not a single treaty of peace, since wars first began, ever contained a stipulation for an armistice. They are contradictory terms: an armistice is a cessation of hostilities for a limited term; a peace is a stipulation that they shall cease forever; an armistice contemplates a continuance of the war; a peace puts an end to it forever. Sometimes an armistice precedes a treaty of peace, and provides for a renewal of hostilities, if the negotiation should fail; more frequently the plenipotentiaries meet, according to the Senator's apposite phrase, *flagrante bello*, in some neutral territory, and without any armistice the war is ended if they agree on the conditions of peace, or continues if the conference is broken off. Look into all our treaties of peace; examine those between other nations, and what do you find? Settlements of boundary, provision for mutual claims, all the endless variety of arrangement to settle the disputes between nations. Who ever heard of these in an armistice? Who ever thought the power to make them should be arranged under the military rather than the civil head? If the President had the power to conduct our wars only, and another department, the Senate, for example, that of making treaties, could any treaty of peace, such as we have made, have been concluded but by them? How comes it, too, if this doctrine be true, that all these trea-

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ties are ratified by the Senate, if they are armistices only? Because, though they have nothing to do with the President's manner of making war, or interrupting hostilities, he can make no treaty without their assent—because, in fine, a treaty of peace (no offence to the certainty of diplomatic law) is a treaty, and not an armistice.

Another certain doctrine of this certain law which is to destroy my argument, is this: That, in a state of war, every individual of one belligerent nation is in hostility to every individual of the other; that, in this situation of things, no minister of one nation could be sent to another; that his personal safety would be endangered from the first man he met; and it never yet was known, says the Senator, very emphatically, that a minister was sent by a Power at war to its enemy, *flagrante bello*, and therefore he concludes that plenipotentiaries to treat of peace are not ministers. If by this is meant ministers resident, no one ever contended that they were; but they are what all the world calls them, ministers plenipotentiary, and it is conceded that they may be sent by the President alone, and that they have not been, and need not be, nominated to the Senate before they are sent. As to the public law, on this subject, having confessed my ignorance, I must leave it to the Senate to decide whether this state of universal and individual warfare is acknowledged by the modern law of civilized nations, and whether, if even at times when it raged with the greatest ferocity, there were not safe conducts known which would enable plenipotentiaries to deliberate in an enemy's capital as securely as they could in a neutral town. Leaving these points, as I said, to be determined by those better qualified to decide them, I must take the liberty, however, to doubt the correctness of the asserted fact that is adduced to support them. I have heard, strange as it may appear to the gentleman, I have heard of ministers sent to treat of peace in an enemy's country, during the existence of the war. I have known some, and history is full of others. The war of our revolution, between England and France, was put an end to by a British minister, in the capital of the French kingdom. The peace of 1801, between the same Powers, was concluded at Amiens, and Amiens is in France. One treaty of peace with Algiers was concluded in that city, the capital of our enemy, by a commissioner appointed with exactly the same formalities that Rhind, Olley, and Biddle were; and the other by an Algerine minister on board of one of our ships of war, representing the territory of the United States; in short, so many are exceptions to the rule, if rule it may be called, that, if it is one, it has been most woefully disregarded in practice.

But the volume of treaties with the Barbary Powers; the long list of plenipotentiary commissioners who have been, like Rhind, Olley, and Biddle, sent to negotiate them, and who have none of them been nominated to the Senate! What is to be done with them? They must be disposed of before we can make way for the fierce denunciation against the President. How is this to be effected? Nothing easier. Deny their existence as nations; call them hordes of barbarians, and the business is done. They are, says the gentleman, like the Indian tribes, who are now under our protection, and our tributaries. An unfortunate assimilation! for there are many honorable members of this body, who think that those tribes are independent nations, and that all stipulations with them are treaties, in the diplomatic sense of the word. The word tributary, too, brings with it degrading recollections; for it so happens that it is only a few years since these very people, to whom the title of nation is denied, were powerful enough to have exacted from us an annual tribute, and not only from us, but from all the nations whose ships navigated the Mediterranean. This way of meeting the objection seems to concede that the course which I have shown to have been pursued with respect to the Barbary Powers, was right and constitutional as regarded them; and

that if the mission now under discussion had been sent to Morocco, or Algiers, or Tunis, or Tripoli, nothing would have been said against it. It was necessary, therefore, to raise some distinction between two missions begun, continued, and ended, precisely in the same way, that should make one a crime, the other a legal and proper measure. How is this done? By showing that the same rules which govern a mission to Algiers, cannot apply to one sent to the Ottoman Porte. Because, first, the Turkish is an ancient Power; it was established, he says, before our existence as a nation. If this were the correct rule for determining whether a people were entitled to the privileges of a civilized nation, it would be rather an unfortunate scale for us to establish. But be it the true one, how is the fact as between the two Powers? The empire of Turkey was not established in Europe until the fifteenth century. Algiers was then an old Government. Soon after, it withstood the power of Charles V, and defeated the powerful army he sent to invade them. It is acknowledged in the argument, that a capture by one of their cruisers is considered by the courts of England as a change of property. They have fleets, armies, a regular revenue, an organized and permanent, though despotic Government; how, with all these attributes of sovereignty, can we call them savage hordes, with whom no regular intercourse of diplomacy can be kept up? Look, sir, into the treaties we have formed with them. All the principles which the most civilized nations have proclaimed, and which so few of them have practised on, will be found to be included in them.

But the States of Barbary are not treated by the European Powers on the footing of other nations. They do not send them resident ministers. If they did not, I scarcely think this would be proof of the fact that they were not considered as part of the family of nations. One of the greatest Powers in Europe has not now, and never has had, an agent here of a higher rank than consul. Nor have we treated him with more ceremony. Does this prove that Austria and the United States do not consider each other as on a footing with other nations? But, sir, the fact is not quite correct. We have had, and now have, ministers resident with these Powers. They have only the title of consuls, but have the powers of ministers; and greater powers than are exercised by ministers in any country in Europe. They have exclusive criminal and civil jurisdiction over their countrymen.\* What other difference between Algiers and Constantinople? In Algiers, they follow the law of Mahomet, so they do at Constantinople. When the Dey is in a passion, he cuts down the consul's flag staff. In Constantinople, the Sultan does worse; he shuts up the minister in the Seven Towers. The Algerine sends no resident ministers to other Powers; neither does the Turk. They both wear turbans; shut up their wives; and have the same contempt for christian dogs. Why, with all these points of similitude, and none of difference, except in extent of territory and power, should there be any in conducting our intercourse with them, which will justify us in characterizing that to be a high crime, in our intercourse with the one, which towards the other is a correct course of conduct? This is a question which gentleman can answer, no doubt, with perfect satisfaction to their own minds, and, perhaps, (but of that I must be permitted to doubt,) with that of the nation.

\* Martens, page 27, says: Although consuls are under the special protection of the law of nations, and may be considered in a general view as diplomatic agents of the State which names them, yet they cannot be classed as public ministers, even of the third order, because they are not provided with letters of credence, &c. These, however, which are sent to the Barbary Powers, and to the ports of the Levant, form an exception, and are the only consuls that are accredited and treated as ministers, the greater part of them, and especially consuls general, named by some Power, either for several places at the same time, or at the head of subordinate consuls, enjoy in some particulars greater prerogatives than those sent to the ports of Europe. Page 26: He classed this grade of consuls above *chargé d'affaires*, who are named to courts where it is not desired or permitted to send a higher grade of ministers.

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*Powers of Congress to lay and collect duties.*

[SENATE.]

In repelling these accusations so unexpectedly made, so vehemently urged, I must not be considered as the authorized advocate of the First Magistrate. I do not pretend to know, as other gentlemen have intimated they know, by whose counsel this measure was adopted, or whether recourse was had to any counsel but that of his own sound, unbiassed understanding. Not being myself his political adviser, I have no parental feelings of affection for any of his measures to mislead my judgment. By its dictates alone I shall approve or condemn. But, sir, he had advisers. Washington and the Adamses, Jefferson, and Madison, and Monroe, were his counsellors; and the advice of such a cabinet no Chief Magistrate need hesitate to take as his guide.

Sir, I repeat, I am not the official advocate, or the political adviser, of the President; but I am, and I am proud of the title, his personal friend; and, in this capacity, I reject for him, as I know he would indignantly do for himself, the excuse that is offered for his intentions, at the expense of his understanding and independence.

I was somewhat surprised to hear the distinction drawn between the measures of the President and those of what is improperly called his cabinet—a body entirely unknown to the constitution. Adopt this system of shifting responsibility, and hereafter it will be used, not for the purpose for which it now seems to be introduced—that of eulogizing certain heads of departments, and throwing the odium of imputed bad counsel upon others—but for the more dangerous purpose of shielding the First Magistrate from the responsibility which the constitution has thrown upon him, and him alone. And it seems strange that it did not occur to the honorable gentlemen who drew the distinction, that the establishment of this doctrine would be a more serious blow to the constitution, which they so earnestly and sincerely defend, than that which (if even their charges were well founded) they deprecate. Be the distinction offered for what purpose it may, the present Chief Magistrate is not the man to introduce or avail himself of it. His measures are his own; the excuse is not required nor accepted by him, nor is it made for him by his friends.

On motion of Mr. FORSYTH, the Senate adjourned.

#### FRIDAY, FEBRUARY 25.

Mr. BENTON laid on the table the following resolution:

*Resolved*, That the powers conferred on Congress by the States to lay and collect duties, and to regulate commerce, are distinct and incontrovertible powers, aiming at different objects, and requiring different forms of legislative action; the levying power being confined to imports, and chiefly intended to raise revenue; the regulating power being directed to exports, and solely intended to procure favorable terms for the admission of the ships and products of the States.

2. That the power to lay and collect duties on imports was solicited by the founders of the present Federal Government, and granted by the States, for the express purpose of paying the public debt, and with the solemn and reiterated assurance that the duties levied for that purpose should cease the moment the debt was paid—which assurance was given in answer to objections from the States, and to quiet the apprehensions expressed by some of them, that the grant of power to Congress to raise revenue from the commerce of the States, without limitation of time or quantity, and without accountability to them for its expenditure, might render Congress independent of the States, and endanger their liberties and prosperity.

3. That the public debt will (probably) be paid off in the year 1834, and the amount of about twelve millions of dollars of revenue will then be subject to abolition, and

ought to be abolished, according to the agreement of the parties at the establishment of the present Federal Government, and in conformity to the present actual condition and interest of the States.

4. That an abolition of twelve millions of duties will be a relief to the people of from about sixteen millions of taxes, (estimating the retail merchants' advance upon the duties at one-third,) and that the said abolition may be made without diminishing the protection due to any essential branch or pursuit of domestic industry, and with manifest advantage to most of them.

5. That, for the purpose of enabling Congress to determine with entire safety to every interest, and with full satisfaction to the public mind, what branches and pursuits of domestic industry may be entitled to protection, and ought to be guarded from the injurious effects of foreign competition, a joint committee of the Senate and House of Representatives ought to be appointed to take the examinations of practical men (producers, consumers, and importers) in all doubtful cases, and to report their evidence to the two Houses of Congress.

6. That the said committee ought to be appointed at the commencement of the next stated session.

7. That the power to regulate foreign commerce was granted to Congress by the States, for the express and sole purpose of enabling Congress to obtain and secure favorable markets abroad for the exports of the States, and favorable terms for the admission of their ships; and to effect these objects by establishing an equitable system of commercial reciprocity, discrimination, and relation, which should measure back to every foreign nation the same degree of favor, or disfavor, which itself measured out to the commerce and navigation of the United States.

8. That the power to regulate foreign commerce, although one of the first of the enumerated powers of the constitution, and the enduring cause of its adoption, has never yet been exercised by Congress.

9. That the approaching extinction of the public debt, and consequent obligation to abolish, and advantage in abolishing, about twelve millions of annual revenue, will enable the United States to receive a large portion of her foreign commerce, say the one-half thereof, free of duty; and that the fair principles of a just reciprocity, the dictates of obvious policy, justice to the States, and the constitutional duty of the Federal Government, already too long deferred, will require this Government to demand equivalents from all nations which may wish to be admitted to a participation in the enjoyment of this great amount of free and unrestricted trade.

10. That the free importation of the following articles (among others) may be admitted into the United States without compromising the prosperity of any branch or pursuit of domestic industry, and with manifest advantage to most of them, namely: linens, silks, wines, coffee, cocoa, worsted stuff goods, several descriptions of woollens, several qualities of fine cottons, several kinds of spirits, &c. &c.

11. That the free importation of the said articles ought to be offered to all nations which shall grant equivalent advantages to the commerce and navigation of the United States, and will receive the products of their industry, namely: fish, furs, lumber, naval stores, beef, bacon, pork, grain, flour, rice, cotton, tobacco, live stock, manufactures of cotton, leather, wool, and silk, butter and cheese, soap and candles, hats, glass, and gunpowder, lead, shot, and sugar, spirits made of grain and molasses, &c. &c., or some adequate proportion thereof, either free of duty, or upon payment of moderate and reasonable duties, to be agreed upon in treaties, and to continue for a term of years, and to no other nations whatever.

12. That there is nothing in existing treaty stipulations with foreign Powers to prevent the regulation of our commerce upon the foregoing principles.

SENATE.]

*National Road in Ohio.*

[FEB. 25, 1831.]

13. That all commercial nations will find it to their advantage to regulate their commerce with the United States on these principles, as, in doing so, they will substitute a fair and liberal trade for a trade of vexations, oppressions, restrictions, and smuggling; will obtain provisions for subsistence, and materials for manufactures, on cheaper terms and more abundantly; will promote their own exports; will increase their revenue, by increasing consumption and diminishing smuggling; and, in refusing to do so, will draw great injury upon themselves in the loss which will ensue of several great branches of their trade with the United States.

14. That the agriculture, manufactures, commerce, and navigation of the United States would be greatly benefited by regulating foreign trade on the foregoing principles: first, by getting rid of oppressive duties upon the staple productions of the United States in foreign markets; secondly, by lowering at home the price of many articles of comfort or necessity, imported from abroad.

15. That the safest and most satisfactory mode of regulating foreign commerce on these principles would be by combining the action of the legislative and treaty-making powers, Congress fixing, by law or joint resolution, the articles on which duties may be abolished, and the Executive negotiating with foreign nations for the grant of equivalents.

16. That, to be in readiness to carry this system of regulating foreign commerce into effect at the extinction of the public debt, it will be necessary for Congress to designate the articles for abolition of duty at the next stated session.

#### NATIONAL ROAD IN OHIO.

On motion of Mr. BURNET, the orders were postponed for the purpose of taking up the bill declaring the assent of Congress to an act of the General Assembly of the State of Ohio.

Mr. BURNET said he would occupy but a few minutes of the time of the Senate in explaining the bill. Its object, he said, was nothing more than to give the consent of Congress to an act of the State of Ohio, for the preservation and repair of so much of the national road as lies within the limits of that State. That the law to which the assent of Congress was asked, provided for the collection of a moderate toll, to be expended in repairs. It also provided for the punishment of persons detected in the perpetration of malicious mischief injurious to the road. He said that it was generally understood and believed in Ohio, that the jurisdiction of this road was exclusively vested in the United States; that the General Assembly had no power to legislate on the subject without the consent of Congress. It was well known, he remarked, that the road would soon become entirely useless, if an arrangement were not made, without delay, for the purpose of keeping it in repair; that, as the road had been constructed by Congress, at a great expense, it was unreasonable to rely on them for yearly appropriations of money from the national treasury, to keep it in a state of preservation; that the road, being once completed, ought to sustain itself without imposing a further burden on the national treasury; that this description of internal improvement could not be carried to any great extent, if every new construction, when completed, was to be followed by a new annual charge on the treasury of the nation. Such, he said, was the impression of the Legislature of Ohio, and on that view of the subject, and for the purposes already mentioned, they had passed the law recited in the bill under consideration. He thought it would be found, on a careful examination of the law, that its provisions were just and reasonable. The toll proposed to be charged was unusually low; much less than is commonly charged on other roads of a similar character—he

was confident that it was less than a tenth of the value of the advantage to be derived by the persons who were to pay it. He disclaimed all idea, or desire, on the part of Ohio, to derive a revenue from this source. They did not contemplate such a result, nor did they wish it. If the road could be preserved without a tax on them, or on the General Government, they would prefer to have it remain as it is now, free and unencumbered with toll gates; but, said he, that is impossible; the road cannot be preserved without constant repairs, which necessarily require a constant supply of money. That Ohio contemplated nothing more than the preservation of the road, was evident from the fact that the whole amount of money collected was to be paid into the State treasury—kept in a separate fund, and applied exclusively to the repair and preservation of the road, and that no more money was to be collected, than would be required for that purpose. Mr. B. said that care had been taken, in draughting the law, to secure the rights of the United States, as well as those of the separate States, by a provision that the mail should pass free; that all persons in the service or employ of the United States, or either of them, and all property belonging to the United States, or either of them, should be exempt from the payment of toll. Such being the character and object of the bill, he did not anticipate an objection that he believed could reasonably be urged against it. It did not, he said, affirm any principles, or profess to settle any question of right; it was a naked declaration, on the part of Congress, of their willingness that Ohio should execute the law she had passed. He was aware that some members of Congress believed that the State possessed that power already, but many others were of a different opinion; and it was manifest that Ohio thought differently, otherwise she would not have passed the law in question. Be this as it may, said Mr. B., I feel confident that every Senator present, whatever may be his opinion on the delicate question of internal improvement, can vote for this bill without committing himself, on any principle connected with that question, because it involves no principle of that character. It will leave the questions of constitutional power and constitutional right where they now stand, to be adjusted and settled as would be the case had this law never been thought of. If, as he believed, the provisions of the bill were unobjectionable, on the score of principle, he was very certain they were calculated to secure a highly important object, as would be verified by the experiment, should the bill under consideration pass. It would prevent future applications to Congress for appropriations of money from the national treasury to repair the road. As yet no such application had been made for the part of the road within the State of Ohio, because it had not become necessary; and he would venture an assurance that such an application should not be made if Congress passed this bill. Ohio would relieve the United States from the tax and the labor of preserving her portion of the road. With the means which this law would put in her power, she would guaranty the accomplishment of the object without further trouble to the United States, and certainly without further expense to their treasury. He believed that the plan proposed by the State of Ohio was the best, if not the only one, by which the road could be kept in repair for any length of time, as it was evident that Congress would soon become weary of making yearly appropriations for that purpose; and that whenever these appropriations should be required, there being no substitute provided, the road would go to ruin, and the money already expended would be lost to the nation.

Mr. HAYNE said he was in favor of the object of the bill. He should be glad to see the principle carried out, and the United States wholly relieved from the care and preservation of this road. He thought, however, that the bill stopped short in one important particular, and that

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was, the cession of the road to the State of Ohio. He should like, if it could be done, to introduce a provision into the bill providing for its cession—it was a matter of importance, in his opinion—and it would release the United States from all future legislation on the subject. Should this course be pursued, next year Virginia, Maryland, Pennsylvania, and other States interested, would make a similar application to Congress, and, their wishes once granted, the United States would be relieved from an almost continual drain on their treasury. The construction and preservation of this road was an unfortunate event for the country; the United States had been, and would be, from the necessity of things, subjected to more expense in works of this nature, than either individuals or States. Mr. H. spoke of the sums paid for the construction of the road, and the great expense required to keep it in repair. He would ask the chairman of the committee if such a provision as he had suggested could not be introduced into the bill, and thus relieve the Government from any further appropriations.

Mr. BURNET, in reply, said, that as many of the members of both Houses were opposed to a cession of the road, as would appear by referring to the debate which took place on that subject two years ago, he was apprehensive that an attempt to amend the bill, as had been suggested by the honorable Senator from South Carolina, might be followed by its loss. He observed that the bill, in its present form, presented no obstacle to the accomplishment of the object which the honorable Senator had in view; that, as it now stood, it secured that object in part, and in a very important part, and he hoped that gentleman would not persist in putting that part at risk, by an attempt now to obtain the residue, which might as well be secured at a future day. That, as the proposition now made was one about which there was a great diversity of opinion, an attempt to introduce it into the bill would certainly induce a protracted debate, which, at this late hour of the session, must be fatal to the whole project. The Senator from South Carolina did not object because he was unwilling to permit the State of Ohio to do what she proposed; on the contrary, as far as the proposition went, it seemed to meet his approbation; but he desired to go further—he wished to make a complete cession of the road; that object would not be defeated by passing the bill in its present shape, but the bill would certainly be defeated by an attempt to amend it as proposed, for the purpose of gaining that object at the present time. On these considerations, Mr. B. objected to the proposition which had been made.

Mr. POINDEXTER said that there were at least two objections to the bill as it now stood, unless the provision suggested by the gentleman from South Carolina should be incorporated into it. The first was, that it undertook to transfer to the Legislature of Ohio a right to erect toll-gates, &c. with a view to the collection of revenue, to provide for keeping the road in repair—a power which the Congress of the United States did not itself possess. The matter had been more than once discussed in Congress, and bills providing for raising a revenue from tolls, for the repair of the road, had been rejected. If, then, Congress did not possess the power, could the right be transferred, by Congress, to the Legislature of the State of Ohio? In his opinion, it could only be done by ceding that part of the road lying within the State of Ohio to that State altogether, and thus give its Legislature a right to exercise the power now sought to be obtained. If the power were not given in this way, he could not see in what other way it could be done, when Congress did not possess the power itself. The second objection was, that, by the provisions of the bill, the justices of the peace in the State of Ohio were to exercise jurisdiction over offenders against the law, and to enforce its provisions. Certainly, said Mr. P., we cannot give this jurisdiction to

those officers of the State of Ohio. The constitution provides, that “the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish.” Can we travel out of the course laid down for us in the constitution, and give an authority to State officers to enforce our laws—give them a jurisdiction which we have no authority to do by the constitution? No, said Mr. P.; we have not the power to constitute these officers, *quoad hoc*, judicial officers of the United States. The course which he should prefer, and which should be pursued, was, to cede that part of the road to the State of Ohio, passing through her boundaries, and so on to other States, to the whole length of the road: for this was the worst Government in the world to have the management of the roads. He had thrown out these views for the consideration of the Senate, and he hoped honorable gentlemen would agree with him in the expediency of an entire cession.

Mr. LIVINGSTON said that the gentleman from Mississippi, who had just taken his seat, mistook, a little, the provisions of the bill. It did not grant a power to erect toll-gates, but simply gave the assent of Congress to the State of Ohio to do so. The road passed through the limits of the State, but was constructed by the United States. Many persons were of opinion that, because the road was made with the money of the United States—others were of opinion that the road was constructed in pursuance of the power possessed by the Government to make post roads; and on these two cases many disputes might arise. He was opposed to ceding the road to the States. Mr. L. remarked that it was the State of Ohio which gave the power referred to the justices of the peace, and not Congress; we, in sanctioning her law, simply assent that she shall have the power to give the jurisdiction to these officers expressed in the bill, and do not appoint them ourselves. Mr. L. made a reference to the inspection and other laws of the States, which were sanctioned by the United States’ Government, but were not laws of Congress. He wished similar provisions to those contained in the present bill could be extended to every State through which roads ran, constructed by the United States.

Mr. POINDEXTER thought he discovered, in the arguments of the Senator from Louisiana, a distinction without a difference. If the assent of Congress was necessary to give effect to a law of the State of Ohio, then we certainly transferred to her a power to do that which she could not do herself. If she had a right to exercise the power proposed to be given in this bill, without our consent, then the bill is useless; but if our assent is necessary, then our act is the only thing which gives a binding effect to the law of the State of Ohio. Where was the difference in our acting on subjects of this kind subsequently or anteriorly? In the present case the Legislature had acted beforehand, and sent their law to us for our assent to its provisions. If we were to pass a law beforehand, giving them the power now sought to be obtained, and they saw proper to act upon the subject, would it not amount to the same thing? The justices of the peace in Ohio, he maintained, would, in this instance, act entirely dependent on our will; and, in granting them the power sought to be obtained, we were going beyond the provisions of the constitution.

Mr. LIVINGSTON said he would state the difference in the two cases, and it was the same difference which existed between a compromise and a suit at law. Might not, two parties being at variance, one offer a compromise for the settlement of their differences, and the other refuse, because, he would say, if I do agree to a compromise, you will say, that I admit you have the right on your side? As to the justices of the peace, when they came



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to act, it would not be by virtue of any law of Congress, but under the provisions of the law of Ohio.

Mr. FORSYTH said he could not vote for the bill in its present shape. He agreed with the gentleman from Mississippi in his views of the matter, and would cheerfully vote for a cession of the road, if the State of Ohio, or any other State concerned, was willing to take it. He was among those who believed that the United States could claim no jurisdiction over the property. The State of Ohio asked of us a jurisdiction which we could not give, said Mr. F., because we had not the power. Cede the property to her, and she might exercise such legislation in relation to the road as she might see proper. He regretted that he could not vote for the bill; he had assigned his reasons why he could not. He was willing to surrender every section of the road to the States interested, if they would keep it in repair.

Mr. RUGGLES said, this was the third effort which had been made to prevent the road from going to ruin. There was no other method that could be pursued to accomplish the end in view. Bills for the preservation of the road had been before Congress on several occasions, but without success. One did pass the two Houses, but was rejected by the then President—Mr. Monroe. Other projects had been tried, but nothing finally done. The State did not contemplate deriving a revenue from the tolls collected; their only object was, to keep the road in repair, and to this purpose the funds would be applied. It would be to the benefit of the United States to assent to the act; and if, in the present case, the assent of Congress was obtained, the States of Virginia, Pennsylvania, Maryland, &c. would hereafter adopt similar measures. Some measure, to keep the road from dilapidation and ruin, should be speedily resorted to. It was the best road in the country; but, unless early attended to, must go to decay. He thought the bill prescribed the best course that could be adopted, and hoped it would pass. Ohio did not ask for or want the road; she simply wished the power to preserve it from destruction.

Mr. BURNET said, there was one point of view, in which the subject might be presented, which he thought would remove the difficulty under which the Senator from Mississippi seemed to labor. The national road, he said, had given rise to questions of doubtful or disputed jurisdiction. Many persons of information and legal talents were of opinion that the jurisdiction vested in the State through which the road passed; others, equally well informed and of equal legal talents, were of a different opinion; they thought the jurisdiction was in Congress, and in this state of things the road was fast going to ruin. For the purpose of obviating the effects of this collision of opinion, without meeting the contested question, the Legislature of Ohio, he said, has passed a law, exercising a jurisdiction in part, with a proviso that it should not be carried into effect without the consent of Congress. The whole amount of the matter then was, that the contending parties, by this bill, consented that Ohio should take charge of the road, for the purpose of preserving it, leaving the question of right as it heretofore stood—unsettled and undecided. The Senator from Mississippi had certainly misapprehended the bill; he had considered the language of the Legislature as being the language of Congress, by supposing that the latter was about to vest jurisdiction by this bill in the officers and courts of the State, when, in fact, it was the enactment of Ohio which gave the jurisdiction, and when Congress were required to do nothing more than express their approbation of the course pursued by that State—all the power to be exercised by those courts and officers would be derived from the State, by an express enactment, in which the United States were neither named nor referred to as having any agency in the matter. If a State, said he, by statute, gave jurisdiction to her own tribunals and

officers, Congress, by expressing its approbation of the measure, will not become the grantor of that jurisdiction; it would still be an authority derived exclusively from the State.

The question was then put on ordering the bill to be engrossed for a third reading, and determined in the affirmative.

#### PUNISHMENT FOR DUELLING.

Mr. LIVINGSTON submitted the following resolution:

*Resolved*, That a select committee be appointed to examine and report whether any legislative provision is expedient, in order to prevent and punish the practice of duelling in the District of Columbia, and that they have leave to report by bill or otherwise.

In offering this resolution, Mr. L. remarked, that when the bill from the other House, for the punishment of crimes in the District of Columbia, was under consideration, some exception was made to that clause which related to the punishment for duelling. Not to hazard that bill, the clause had been stricken out, with a view to come at the subject by the appointment of a committee to prepare and report a special bill relative to duelling. With this view he had offered the resolution, and he doubted not that a bill might be reported in time to be acted on at the present session.

Mr. HAYNE was in favor of the adoption of the resolution. It was his object, in moving to strike out the clause of the bill referred to, that the gentleman from Louisiana [Mr. LIVINGSTON] might have an opportunity to present his views on the subject in the shape of a specific bill. Should a bill be reported, as an individual he would cheerfully co-operate with him; and he thought such a bill might be matured, as would have a beneficial effect.

The resolution was then agreed to, and Messrs. LIVINGSTON, HAYNE, and CLATTON were appointed the committee.

#### TURKISH MISSION.

The Senate then resumed the consideration of the amendments to the appropriation bill, the question being on the motions of Messrs. TAZEVELL and KANE.

Mr. FORSYTH said he was in favor of the amendment proposed by the Senator from Illinois, [Mr. KANE.] He was satisfied of its strict propriety, by his recollection of what occurred in the House of Representatives in the year 1818, when he occupied in the House the position now occupied in the Senate by the Senator from Virginia, [Mr. TAZEVELL] who first opened the discussion. Mr. Monroe had appointed three distinguished citizens commissioners to go to Spanish America, to examine into the political condition of the States struggling to maintain their independence. He had promised them salaries at the rate of \$6,000 per annum each, and had given them a secretary with a salary of 2 or 3,000 dollars. These gentlemen had all been appointed during the recess of the Senate, and were not nominated at the ensuing session. They had left the United States on their mission before Congress met. Their mission was one of the topics of the Executive message at the opening of Congress. The appropriation bill of that year was reported with a clause making a specific appropriation for the payment of these commissioners and their secretary. The Speaker of the House, Mr. Clay, who was just beginning to display symptoms of hostility to the administration, inquired into the authority for making those appointments—doubted the propriety, and condemned the expediency of them. After a consultation with that distinguished statesman, the late Mr. Lowndes, the purity of whose character, the soundness of whose judgment, whose honorable ambition, with not enough of the alloy of selfishness in it to make it current in the world's traffic, gave to his opinions, while he lived, the most imposing weight. Mr. F. proposed to strike from the appropriation bill the specific appropria-

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tion, and to add the amount required for the payment of the commissioners to the sum set apart as the contingent fund for foreign intercourse. The amendment was adopted without a division, and proved acceptable to the Senate. The object was to throw the expenditure upon that fund which was entrusted to the absolute discretion of the President, to prevent any inferences unfavorable to the controlling power of the Senate in confirming appointments, and of the House in creating offices. The confidential agents appointed to negotiate a treaty with Turkey have been appointed under the same authority that was exercised in 1818 by Mr. Monroe. If there was any difference in principle, the difference was in favor of the present administration. The commissioners to Spanish America were public political agents with fixed salaries, protected by the flag of the United States in their voyage, and by the commissions from the Secretary of State, bearing letters to the Governments they were sent to visit, and entitled to respect in their known public political character from all civilized nations. The agents to Turkey were secret agents, without salaries, authorized to make a treaty of commerce, if practicable, without letters of credence to any Power, and entitled to no peculiar protection except from the Turkish Government, with whose officers it was necessary for them to confer, to ascertain the practicability of effecting the object in view. There certainly was no course of reasoning that would make Messrs. Rhind, Offley, and Biddle in the recent, and Messrs. Offley and Crane in the former, effort to negotiate secretly with Turkey, officers of Government, whose appointments ought to be provided for by law, or subject to the controlling power of the Senate, that would not more strongly apply to the case of the commissioners, Bland, Rodney, and Graham, and their secretary, Brackenridge, who were sent to the South American States by Mr. Monroe.

Mr. F. said he had hoped that the proposed amendment of the Senator from Illinois would have met the approbation of the Senator from Virginia, [Mr. TAZEWELL,] as he professed a perfect readiness to pay liberally for the services rendered, if no inference against the power of the Senate could be drawn from it. He contends, however, that such an inference will be justifiable, if the payment is not made on the personal application of the persons who rendered the service, by a bill specially reported for their relief, and originating in the House of Representatives. Mr. F. did not agree with the Senator on this point. All that could be legitimately inferred from the proposed increase of the contingent fund was, that Congress decided that the commissioners should be remunerated for services rendered in Turkey. The amendment proposed by the other Senator from Virginia [Mr. TYLER] appeared to be, therefore, unnecessary to the protection of the Senate, and objectionable; as, with the ostensible purpose of extracting a conclusion not liable to be drawn, it gave occasion to one, unjustifiable in itself, reflecting upon the present administration, and the present administration only. Mr. F., while he believed the present discussion neither called for, nor in place, was not unwilling to express his opinions on the question suggested by the Senators from Virginia, or those really involved in the appropriation for the payment of the Turkish commissioners. He coincided in opinion with the Senator on his right, [Mr. TAZEWELL,] that, since the establishment of the Federal Government, the Executive had gained upon the legislative branches of the Government, had encroached upon the authority of the Senate; and whenever any Senator presented himself to restore the true principles of the constitution—to vindicate the powers of the Senate, Mr. F. would afford his hearty support, without stopping to inquire over whose prostrate fortunes it was necessary to march, in effecting that great object. In the important business of foreign intercourse, it appeared to him that the framers of the constitution intended

that every negotiation, from its inception to its consummation, should be made known to, and, to a certain extent, be under the control of, the Senate. In the first years of the Government such seemed to have been the practice. General Washington frequently presented to this body such questions as these: Shall a negotiation be opened with such a Power? Shall instructions to this or that effect be given? Shall a treaty be formed, if the mutual stipulations indicated could be agreed on? In this practice General Washington did not persist. An event occurred in 1795, having no doubt some influence in justifying, in the minds of our Presidents, if it did not occasion, this change. A subject of vast consequence was submitted to the decision of the Senate in secret executive session, under the most sacred obligation not to be disclosed by any Senator. No sooner had the Senate adjourned, than the whole matter was spread before the public by a Senator from Virginia, [Mr. Mason.] The whole country was thrown into confusion; warm, animated, angry discussion followed, and all the services, and virtues, and character of Washington were insufficient to save him from the censure and reproach of a part of the country. Mr. F. did not censure that disclosure; those to whom the Senator was responsible applauded the act; he would not question their decision.

It was soon found, as the Government moved on, that if a desire was felt that any subject should be bruted about in every corner of the United States, should become the topic of universal discussion, nothing more was necessary than to close the doors of the Senate chamber, and make it the object of secret, confidential deliberation. Our own experience shows that, in this respect, there has been no improvement; the art of keeping State secrets is no better understood now than it formerly was. Yet, with these facts before the public, the honorable Senator from Virginia, nearest to him, [Mr. TYLER,] asserts that the Senate is a perfectly safe depository for all the secrets of our foreign diplomacy.

This change in the course of the Executive Department had been submitted to without censure or resistance. No individual Senator, even as far as Mr. F. was informed, had ever made an effort to drive the Executive into a full and frank disclosure of the mysteries of our foreign intercourse, or to sustain a claim to control, by Senatorial advice, the character and extent of the instructions given to our foreign ministers or agents. Thinking, as Mr. F. did, that the constitution intended the Senate should be previously consulted on all points of foreign negotiation, he was yet compelled to admit that the usage of the Government had been uniformly inconsistent with that opinion. Upon the question of appointments to new foreign missions in the recess of the Senate, on which the gentleman from Virginia on his right [Mr. TAZEWELL] had dwelt with so much zeal and earnestness—the right of the President to originate new missions during the recess of the Senate, although exercised in many cases, and asserted on a recent occasion by the late President, had not been resisted by the Senate. Individual Senators had condemned, and had asked the Senate to join in the censure of such acts and pretensions; but the Senate had, on every occasion, evaded a decision.

Both the great parties into which the people were supposed to be divided, had united in the expediency of avoiding collision with the President on this question of power.

The motions of Mr. Gore, censuring the appointment by Mr. Madison during the recess of the Senate, of Messrs. Gallatin, Bayard, &c., to treat under the Russian mediation, were laid on the table by the republican votes of the Senate. The motion of the present Secretary of the Navy, (Mr. Branch,) condemning the pretensions of Mr. Adams, that he, as President, was competent to appoint ministers to the Congress of Panama, was laid on the table by the vote of the friends of the late administration. So far

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as a judgment was to be formed of the opinion of the Senate, any President had a right to conclude, whatever may be the opinion of his cabinet or of some of his distinguished friends in either or both Houses of Congress, that his power to make appointments to new missions during the recess of this body was admitted by the Senate itself. Mr. F. did not impute the failure on the part of the Senate to assert its constitutional rights to party considerations alone; although it had unfortunately happened that these questions were always stirred in high party times, and pressed with a view to party effect; the subject was one of difficulty; and whenever it is canvassed as it ought to be, with a single eye to the relative constitutional power of the President and Senate, it would be found that a decision either in favor of or against the power of the President alone to appoint to new missions, would be attended with serious danger to the public interest. He was prepared, whenever, in executive session, it was proposed unconnected with party strife, for the expression by the Senate of a fixed opinion; and to adhere to that opinion in all future intercourse with the Chief Magistrate.

Apart from these questions, the experience of the confederation having shown the necessity of secret confidential agencies in foreign countries, very early in the progress of the Federal Government, a fund was set apart, to be expended at the discretion of the President of the United States on his responsibility only, called the contingent fund of foreign intercourse. The gentleman from Virginia on his right [Mr. TAZEWELL] supposed that this fund was for the payment of spies in foreign countries, who might be imprisoned or hung, if detected, with his free will, as the United States were not bound to protect them. This would depend upon their character; if American citizens, they would be entitled to protection; and that protection should, at every hazard, be afforded; but this term spy, to which the gentleman chooses to confine the use of this contingent fund, will not answer his purpose. Foreign ministers are defined to be privileged spies, sent abroad to lie for the benefit of their country, (the last part of this definition Mr. F. hoped was not always accurate.) If the President can, on the strength of this contingent fund, appoint spies, he can appoint the privileged spies. But on what ground does the gentleman narrow down the use of this contingent fund? It was given for all purposes to which a secret service fund should or could be applied for the public benefit. For spies, if the gentlemen please; for persons sent publicly and secretly to search for important information, political or commercial; for agents to carry confidential instructions, written or verbal, to our foreign ministers, in negotiations where secrecy was the element of success; for agents to feel the pulse of foreign Governments, to ascertain if treaties, commercial or political, could be formed with them, and with power to form them, if practicable. Such uses have been frequently made of this fund; indeed, the propriety of thus using it is now, for the first time, doubted. Why is it publicly discussed? Mr. F. could not probably speak of what the executive journal did, but he was authorized to say what it did not contain. The Senate had not censured or doubted the propriety of the appointment of the agents to make a treaty with Turkey. No committee of that body, no individual Senator had proposed to the Senate to express any opinion on the subject. But, on this petty appropriation, the grave constitutional question is stirred here by both Senators from Virginia—the one [Mr. TAZEWELL] from despair—the other, [Mr. TRIER], because an attack ought to be openly made.

To the first Senator, Mr. F. would suggest that patriotism should never despair of the republic; and that the people might possibly remind him that he should not invoke Hercules until he put his own shoulder to the wheel. The other Senator discloses the purpose of his movement; it is an attack. Certainly the place is well chosen, and

the attack is in the nick of time. Mr. F. thought the executive session was the true place to vindicate the rights of the Senate in its intercourse with the Chief Magistrate—that the judgment of the Senate ought to be distinctly expressed, not left to obscure inferences from omissions or expressions in appropriation acts—these were proper in the House of Representatives, which could only through appropriations check the irregular or dangerous action of the Executive, but not in the Senate. Yet he admitted the propriety of taking any and every opportunity to give warning to the States and to the people. This being the avowed object, no allusion to the handwriting on the wall was necessary. The administration was in the balance, and the people will decide whether it is or is not wanting in fidelity to its trust. Some remarks had been indulged in, on the manner of the Senators from Virginia in their discussion of this subject. Mr. F. was too much in the habit of speaking freely to find fault with it in others—indeed, he was always like Locksley, the Robinhood of Ivanhoe, ready to add his halo “whenever he saw a good shot or a gallant blow.” If disposed to criticise, he should find the opposite fault with both the Senators—they were far too courtly for the meridian of the United States. They had adopted and acted upon the maxim of courtly continental Europe, and of the palace of St. James. The Chief Magistrate can do no wrong—the ministers are responsible—on them let the weight of public indignation fall; and one of the gentlemen [Mr. TAZEWELL] had gone so far as to express the sentiment, that he was willing to have the maxim universally acted upon, if the cabinet ministers could be, as in England, brought to the block for giving unconstitutional advice to the President. Until the constitution changes, the Chief only is responsible for Executive acts; he may take the advice of his Secretaries if he thinks proper; but there is no obligation upon him either to take or to follow that advice; and if he does both, he does not escape the consequences—he is morally, constitutionally, and legally answerable for all Executive acts; and Mr. F. thanked God that whenever there should be use for the headsmen's axe, there was no officer of this Government too high nor too low to escape its edge. The present Chief Magistrate asks not the introduction of this slavish doctrine—late discoveries show that he is not willing to assume the obligations of others, but he has never shrunk from his own. If there is one characteristic above all others peculiarly distinguishing the man, it is the fearlessness with which he throws himself upon responsibility; not with the reckless indifference of a profligate, but with the generous confidence of an honest mind. Surprised, as Mr. F. was, at this unusual effort to strike over the President's shoulders at objects behind him, and sheltered by his constitutional shield, he was still more struck with the distinctions made in selecting points of attack. The Senator who led the assault [Mr. TAZEWELL] charged upon the four members of the cabinet, who had been formerly members of the Senate, upbraided them for the inconsistency of the conduct of the Executive with certain opinions recorded in the journals of the Senate during the Panama discussions; and with giving to the President advice to violate the constitution. The Secretaries of State, War, and Navy, and the Attorney General, were condemned for having advised, or for not having prevented by their advice, a violation of that sacred instrument. Why is the Secretary of the Treasury excluded? He, too, is a constitutional adviser of the President, under the like obligations to give good counsel, and, by so doing, preventing violations of the laws and constitution of the country. On all the important questions arising out of the Panama mission, there was little difference of opinion among the then opposition party, of which the Secretary from Pennsylvania was a most active member; and, although not recorded here, his opinions stand upon record elsewhere on those questions. Why is he of Pennsylvania excused by the

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Senator, [Mr. TAZEWELL,] when he of New York, and he of Tennessee, and he of North Carolina, and he of Georgia, are condemned without scruple or mercy? Even this discrimination, singular as it is, is surpassed by that of the other gentleman from Virginia, [Mr. TYLER.] He, too, seems to have a favorite in the cabinet, the Secretary of the Navy, (Branch,) whom he has anxiously sought, to draw out of harm's way from the deadly range of the too hot fire of his colleague. Cannot our navy stand fire? Now this Secretary (Branch) was the author of the resolutions brought up in judgment against the cabinet—the appropriation of the other three Secretaries is inferred from their vote against the motion to lay them on the table—an inference, every Senator knows is not always correct. Yet the author is to be excused, the inferred approvers condemned. It cannot be supposed that the Secretary of the Navy was ignorant of this secret negotiation with Turkey. By the facts communicated to the Senate, he is the only one, besides the Secretary of State, who certainly was informed of it. The expenses of the agency were advanced by the Navy Department, and repaid out of the contingent fund of foreign intercourse.

The commander of the Mediterranean squadron was one of the commissioners, and had instructions from the Navy Department, about the funds to be used in the negotiation and the movements of his ships, to facilitate its success. Yet, although he did know, and it is uncertain whether two other members of the cabinet did or did not know any thing about it, he is not only carefully moved out of the way of reproach, but is made the subject of a special eulogium. He from North Carolina is the true republican of the old democratic principles. He is a star who never suffered dim eclipse, nor shed disastrous twilight over half the nations; nor, Mr. F. would add, with fear of change, perplexed monarchs—and Mr. F. would say further, if disposed to indulge in a prophetic spirit, that the honorable Secretary never would. No disparagement to the worthy gentlemen was intended; the poetry and the prophecy might be applied to all, and to any of his associates. Those who were disposed to speculate curiously into the circumstances of the hour, might investigate the causes of these strange discriminations. You and I, Mr. President, said Mr. F., adopting the habit of our New England brethren, might make shrewd guesses at the true causes; but whether our guesses would fly at random, or directly to the mark, is not at present of much importance—now, it is necessary only to mark the fact that the discrimination is made. Leaving the favored pair to rejoice, the one at his perfect, and the other at his partial immunity, and the unfortunate triumvirate to repine at their fate, and bear, with all the grace in their power, the galling fire of Virginia's wrath, Mr. F. would proceed to consider the attack as if made upon the only responsible officer, the President of the United States. He was charged with lawless acts, with the first violation of an important provision of the constitution of the United States, with a usurpation, into his own hands, of a power confided to him conjointly with the Senate.

The Senator from Virginia who first spoke on the subject, [Mr. TAZEWELL,] denied the correctness of the distinction between agents and officers of the Government. The distinction might not be sound; but one thing was certain, that it had always been made, and always had been and was now acted upon. Every head of a department occasionally employs and pays agents in the execution of the duties of his office, on the strength of the contingent fund submitted to his disbursement. We have consuls appointed under the constitution, by and with the advice and consent of the Senate: commercial agents selected by the President with consular powers, about whose appointment the advice and consent of the Senate is never asked. We have agents or commissioners to make contracts, treaties they are called, with Indian tribes. These appoint-

ments were in the first days of the Government submitted to the Senate, but were soon made at the discretion of the President or his Secretary of War, without even the ceremony of stating to the Senate that they had been made. We have foreign ministers and *chargés d'affaires* appointed, by and with the advice and consent of the Senate; and agencies committed to the Secretary of State to make treaties while the Senate is sitting, and secret agents to make treaties abroad; and in neither case is the Senate informed of the power given until it is executed, the treaty being signed by the empowered agents.

If these acts are lawless—if these are violations of the constitution, encroachments on the powers of the Senate, the remedy should come from Virginia, for Virginia was the author of the evil. If the constitution lies suffering under festering wounds, the blows were struck by her steel, and it is her duty to apply the sovereign balm—the rust of the weapon heals the wounds it has made. The first stab was given by the parental hand of Washington. Jefferson, and Madison, and Monroe, have each, in turn, struck deep into the vitals of the victim. Ay, sir, if her Senators are right in principle, they can point to as many gashes in the constitution, as Antony bared to the view of the Roman people on the mangled body of their dead Cæsar.

Mr. F. would not fatigue the Senate by bringing again into view all the examples of appointments like those of the commissioners to Turkey. He would touch only two or three of the most striking; some of the prominent circumstances of which had escaped the attention of the gentleman from Louisiana, [Mr. LIVINGSTON.]

On the 30th of March, 1795, David Humphreys, minister of the United States to Portugal, was appointed by General Washington, during the recess of the Senate, a commissioner to conclude a treaty of amity and commerce with Algiers. He negotiated a treaty, by his deputy, J. Donaldson, jun., in September, 1795, but signed it himself at Lisbon, on the 28th of November, 1795. This treaty was negotiated under a full power, bearing the sign manual of the President, and the broad seal of the United States. It was submitted to the Senate in February, 1796, and ratified on the 2d of March, 1796, by a vote of twenty-three to two. No nomination of Mr. Humphreys was made to the Senate. The tenth session of the Senate, an extra session called by President Washington, began on the 8th, and closed on the 26th of June, 1795. Here there was a confidential commissioner appointed under a full power, during the recess of the Senate, not nominated to the Senate at its succeeding session, and about whose movements nothing was known until late in the second session after his appointment; when this power having been successfully executed by the formation of a treaty, that treaty was submitted for approval, and ratified almost unanimously, without a whisper of disapprobation on the course pursued by General Washington, or a doubt as to his right to the exclusive power exercised by him.

A like commission was given to Mr. Humphreys at the same time, 30th March, 1795, to make a treaty of amity and commerce with Tripoli. Joel Barlow was substituted the 10th of February, 1796; a treaty was negotiated on the 4th of January, 1797, and laid before the Senate on the 26th of May, 1797. Two sessions of Congress intervened, and three sessions of the Senate, between the appointment of the commissioner and the submission of the treaty to the Senate, during all of which General Washington was President. Mr. Adams submitted the treaty for ratification during the third session of Congress succeeding the appointment of the commissioner. No nomination was ever made, and the conduct of the Executive in both cases was approved. Mr. F. would not say that what had been done in those days was right, because it was done by the great model for statesmen and citizens; but he would say that the President could not be justly charged with

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now, for the first time, violating the constitution, when he had taken such examples for his guide, and squared his conduct by the rule of Washington. Mr. F. would not press the subsequent appointments made by the succeeding Presidents from Virginia, as all had been alluded to, except the remarkable one made by Mr. Madison in 1816. William Shaler and Isaac Chauncey were appointed on the 24th of August of that year, commissioners to alter the treaty then recently made with Algiers by Shaler and Decatur, under a commission to them and Captain Bainbridge. This alteration was made by treaty on the 23d of December, 1816, and ratified during Mr. Monroe's administration, 1st of February, 1822: yeas, 42—nays, none. Mr. F. had both commissions in his hands; they were full powers under the sign manual of the President and broad seal of the United States, in all respects like the powers granted to Biddle, Olney, and Rhind. In these instances also, the Virginia President did not ask the advice and consent of the Senate, and escaped, like his great predecessor, all censure and remark. The honorable Senators, however, admit that all these things have been done, and, as they say, rightfully done; and their opinions against this Turkish negotiation rest upon the correctness of certain distinctions they have presented to the Senate. They admit that the former Presidents, beginning with General Washington, have, during the recess of the Senate, rightfully appointed commissioners to treat of peace and commerce with the Barbary Powers, whose names were not sent to the Senate at subsequent sessions. They admit that Messrs. Gallatin, Bayard, and Adams were rightfully appointed during the recess of the Senate to treat with Great Britain under the Russian mediation. They admit that the President has rightfully negotiated treaties in Washington during the recess of the Senate, and during the sessions of this body, without asking its advice and consent, by the instrumentality of the State; and, admitting all this, they accuse the President of the United States of disregarding the constitution, for having negotiated, through the instrumentality of secret agents, a commercial treaty with Turkey.

The honorable Senators unite in resting this apparent inconsistency of opinion on these grounds:

First. On the ground that all the previous appointments of this kind were made during war. A state of war, in their judgment, justifies during the recess the appointment of commissioners to make peace; but does it justify, also, the failure to ask a confirmation of the appointment of these commissioners at the succeeding session of the Senate? It was not so contended when Mr. Gore's resolutions were discussed. This resort to the war power is, however, certainly convenient, as carried to its legitimate extent; it renders any participation of the Senate in the business of re-establishing the regulations of peace altogether superfluous. It proves too much for the gentleman's purpose. It involves besides the truth of one of these propositions, to both of which Mr. F. expressly dissented. Either that the sole power of the President over the foreign relations of the United States was enlarged, or the controlling power of the Senate over those relations diminished, by the state of war—propositions far more dangerous in their consequences than any that could arise from the practice of appointing secret confidential agents in negotiating treaties of commerce. Mr. F. did not believe that any gentleman would risk his reputation as a statesman, (if he might use the term without offence to the Senator behind him, [Mr. TYLER,] who had honored it with a peculiar sneer,) seriously contending that either was true; yet, he submitted with confidence to the judgment of the Senators, if one of them was not the inevitable result of the distinction taken by the gentleman from Virginia.

The facts in the cases referred to did not bear the gentlemen out, even if their distinction was just; all the appointments made, were not made during a state of war.

Here, however, a reliance is placed upon another ground, covering all the appointments made to treat with the Powers on the Barbary coast. It was said they were Barbarian Powers, and not to be treated as civilized nations. Indeed! Barbarian Powers! Foreign Barbarian Powers, certainly not dependents on the United States. The treaties formed by the commissioners mentioned made the United States, for a time, their tributaries. As this was a grave constitutional question, to be tried by the language of the instrument itself, Mr. F. would ask, with due respect, why the gentleman travelled out of the instrument to look into the character of the foreign Power with whom negotiation was directed by the President, and what degree of civilization in a foreign nation was necessary to bring the agents sent to them within the controlling power of the Senate. The honorable Senators did not as yet affirm that the treaties made with them were not beyond or below the Senator's orbit. But Mr. F. did not discover any reason for the participation of the Senate in the ratification of the treaty, which was not applicable to the appointment of the negotiators, if they were, as contended for by the gentlemen, officers in the technical language of the constitution. In their zeal to find them, they have struck upon distinctions much too broad for their purpose. Supposing the distinction sound, the distinction covers the Turkish negotiation, and upon their own doctrines the administration stands justified. Take the Algerines, for example's sake: how do they differ from the Turks? The European would call the Algerines barbarians—so he does the Turks: the Algerines are not Christians, nor are the Turks; the Algerines are Mahometans, so are the Turks. In the event of a rupture, the Algerines imprison the consuls of the Power with whom they are at war, reduce its subjects or citizens to slavery, and confiscate all the property belonging to the enemy's nation within their power—so do the Turks: on the principle of the *lex talionis*, the Algerines are not entitled to the benefits of the rules of honorable war—nor are the Turks. The gentleman from Virginia [Mr. TAZEWELL] says the Turks have been a formidable power before the American Government had existence—so have the Algerines, although their Dey is now kicked about with as little ceremony as a Cherokee chief. How long is it since Algiers has made the most formidable nations of Europe tremble? If antiquity of strength is of any importance in this discussion, the barbarians on the coast of Africa, so called while they were teaching Europe civilization, have been terrible for centuries. They foiled, in all the pride of his strength, the grandson of that monarch under whose patronage this continent was discovered. He who humbled France, was almost master of Europe, was himself reduced to extremity by these now despised Barbarians. Mr. F. was unable to discover any tangible distinction between the Mahometan Powers of Africa, and the Mahometan Powers of Europe and Asia. Turkey was distinguished from the others in the eyes of Europe, but that distinction was founded solely upon the geographical position of a part of the Sultan's dominions—a position that could not be important in the question before the Senate. Occupying an interesting and imposing position in Europe, the European Governments condescended to consider the Turkish Government as part of the European system. It was one of the make-weights in the balance of power—that chimera to which millions of lives had been sacrificed—which had enabled the wily diplomacy of artful despotism to stay for centuries the onward march of reason and liberty. In no other respect is there a distinction made between the Turks and other Mahometan Powers. War and peace, and treaties of commerce, are made with all, and with all the nations of the world regulate their intercourse as if they were Christian Powers. Until the gentleman can find a stronger distinction than this, it must be admitted that the practice of former administrations in their



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intercourse with the Barbarian Powers, covers the case of this secret negotiation with the Barbarian Turk.

The gentlemen had not been more fortunate in maintaining the other ground chosen by them. Pressed by the force of the precedents urged of treaties made without the Senate's knowledge, by the instrumentality of the Secretary of State, during the recess, and during sessions of this body; treaties of commerce, of indemnity, of claims due to and by the United States; for the settlement of disputed boundaries, and for cessions of extensive territory, the Senators urge that the negotiators acted in these cases as the agents of the President, by virtue of their commissions as Secretaries of State. What was there in the commission of the Secretary of State that made him, *ex officio*, a negotiator? What was there in the law creating this office that warranted this distinction? There was certainly nothing, either in the commission or act of Congress. There was a mistake made by the gentlemen destructive of their conclusion; they assumed as a fact what did not exist. The Secretaries of State, acting as the agents of the President, did not negotiate by virtue of their commissions as Secretaries of State—they were appointed by the Presidents, under their sign manual and the broad seal of the United States, for the special purpose of making the treaties formed by them severally; they had full powers, such as were granted to Biddle, Oflsey, and Rhind. There was no difference but this: the Secretaries in Washington, in the face of the Senate and of the nation, negotiated; the Turkish commissioners transacted their business in secret at Constantinople. What constitutional principle justifies the appointment of an agent here, the Senate sitting, publicly or privately, to form a treaty with a foreign Power, that will not justify the appointment of a secret agent to form a treaty, if practicable, in London or Constantinople? The place where the power granted is to be carried, cannot affect the right of the President to grant that power. Suppose the Turkish Government had sent a secret and confidential agent to Washington, and a treaty had been concluded with him by the Secretary of State, as the agent of the President, can it be reasonably pretended that the appointment of the Secretary as agent would not have been a constitutional exercise of power by the President, according to all past usage? If it would have been, casuistry itself could not condemn the appointment of the secret agents who had been sent to Constantinople.

Mr. F. believed the conduct of the President strictly correct, if it could be shown that the negotiation with Turkey ought to have been kept secret. The motives for a secret negotiation were to him obvious and satisfactory. The United States could have no desire for any political connexion with Turkey; a commercial treaty had long been considered important, and it had always been deemed prudent to seek to establish commercial relations with that Government by informal secret agents. It has been thought that an informal agency would be more likely to succeed than a public minister; the mission of a confidential informal agent would not create a belief that we were too anxious to succeed, while his secret negotiation would not be liable to be defeated by the influence of the great Powers who were represented at Constantinople. It was apprehended that some of the European Governments, none of whom dislike to monopolize power and commerce, might not be pleased to see Jonathan's long sickle thrust into the golden harvests that grow on the borders of the Euxine, and might possibly use some little artifices to prevent it. There was some pride, too, in refraining from a public effort to make a treaty when success was so problematical, and with this pride was mingled no small portion of Yankee economy. A public mission to the Turkish Government, successful or unfortunate, was always expensive, and there was a wise determination not to expend the public money, if the object in view could not

be accomplished. One of the Senators from Virginia [Mr. TYLER] had dwelt with strong emphasis upon the character Mr. Rhind gave himself in a letter to the Secretary of State. Suppose that the respectable and worthy man had, in the vanity of recent, and, as he honestly believed, important success, considered himself as a high diplomatic character, his view of it did not determine his character; and that could not, from the papers before the Senate, be mistaken. To the often repeated question, of how did these agents differ from public ministers, Mr. F. saw but one answer—they were not accredited by the heads of the foreign Government with whom they transacted business—they carried no letters credential, and were entitled to no privileges. It was not Mr. F.'s purpose, nor was it necessary for the vindication of the administration, to sustain the propriety of this distinction\* between agents and ministers; he had accomplished his object by proving that it had been early and constantly made, and by no Presidents more frequently than those who were given to us by Virginia.

The honorable Senator who led the way in this discussion, [Mr. TAZEWELL,] not satisfied with having charged the cabinet with a palpable violation of the constitution, seemed determined to make the impression that there had been an insidious design in the manner of asking for the appropriation to pay the Turkish commissioners. He imagined the Secretary of State wished to entrap the Senate into a sanction of the original appointment of these confidential agents. "The Secretary knew," the gentleman said, "at the beginning of the session of Congress, that this appropriation would be wanted. The Secretary asked it not of the House of Representatives, where appropriations ought properly to originate; but, at this late day of the Senate, through their Committee of Finance." No desire to receive a sanction of the appointment of these commissioners could exist, after the treaty formed by them had been ratified, without the slightest intimation from the Senate that there had been any irregularity in the manner of appointing them. The history of the transaction is an ample refutation of this ungenerous charge. The Turkish treaty was not disposed of until the general appropriation bill had passed the House of Representatives; the appropriation for the payment of the service rendered could not be asked for until the question on that treaty was decided here; and when it was decided, the appropriation was requested where only it could properly be made. The assertion of the gentleman, that appropriation bills ought properly to originate in the House of Representatives, was not American in its character; it was borrowed from England. The House of Commons of the English Parliament asserts its right to originate all money bills; the House of Representatives of the Congress of the United States had no exclusive right to originate any bills but those for raising revenue; and recent circumstances were well calculated to raise a doubt of the propriety of that restriction upon the power of the Representatives of the States. Even revenue bills could be amended in the Senate, and the appropriation under discussion could be properly made if the English rule was to govern our practice. There was in this case a peculiar propriety in asking the appropriation of the Senate. When these commissioners were appointed by the President, he might have paid their services out of his contingent fund; but scrupulously desirous not to use the discretion over it vested in him, when it was not absolutely necessary, he directed the commissioners to be told, "your expenses shall be paid out of the contingent fund, and such compensation for your services as Congress may allow." Now, sir, to have asked this appropriation of the House of Representatives in the first instance, would have been to apply to persons who had not, and cannot have, until the ratifications of the Turkish treaty are exchanged, the means of judging what sum ought to be paid for the service rendered. The

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Senate does know, and no doubt the House will so far rely upon our knowledge and discretion as to approve the sum that may be fixed upon here. The Executive is unfortunate, when his scrupulous anxiety to consult the representatives of the people, and of the States, in the expenditure of public money, gives birth to a charge of insidiously attempting to make the Senate connive at a violation of the constitution, and approve of his usurpation of their rightful power.

The services rendered by the commissioners had been slightly spoken of. Some supposed that a treaty with Turkey was of no consequence, since the treaty of Adrianople between Russia and Turkey had opened the channel into the Black Sea to all nations. It was true, that, by the stipulations of that treaty, the Turks bound themselves to Russia to admit all Powers at peace with the Ottoman Porte into the Black Sea; and Russia was expressly authorized to consider a disregard of that stipulation as just cause of war. Still the treaty of Adrianople, dependent, as it is, upon the continuance of peace between Russia and Turkey, gave the United States no claim upon Turkey to a free passage through the canal of Constantinople: in fact, Americans who ventured into the golden horn were not permitted to pass through the Black Sea. No doubt the Government might have solicited from the Emperor of Russia his interference to secure the observance of the treaty made with him. His answer would certainly have been, I wish you to have a commerce with all my dominions; but at present I cannot prudently go to war to compel the Turks to fulfil this engagement. Whenever circumstances permit, I shall recollect and punish this disregard of the promises made to me. Was it not better to procure from the Ottoman Porte itself the right to a participation of the commerce of the Black Sea—a right which would be independent of the state of war or peace with Russia, than thus to have solicited the exertion of Russian power for our benefit? The treaty of Adrianople, without doubt, facilitated our success. That our object could not have been reached without a treaty, is certain. We know that, under the Turkish construction of the treaty of Adrianople, nations not having treaties with Turkey are not admitted into the Black Sea—that nations having commercial treaties, since the treaty of Adrianople, have sought admission under the protection of the promise to Russia, and that it has been refused; the answer made to both was, the engagement made with Russia does not alter our treaties with other Powers. The honorable Senator from Virginia on his right [Mr. TAZEWELL] had spoken of the inconsiderable benefits likely to arise out of the commerce to the Turkish and Russian settlements on the Black Sea. There was no recent information on which a certain calculation could be made of the benefits that would probably result to the country from this negotiation. The commercial community would, as the most intelligent merchants believed, profit by it. The navigating interests certainly would, unless the owners of ships had lost their ancient skill and enterprise. In the present depressed condition of the navigating interest, perishing under the paralyzing influence of our internal policy, the administration had done its duty in looking to our external policy for its relief. Mr. F. had, with some diligence, sought for accurate information. Although his labor had not been as well rewarded as he could have wished, he had yet collected some facts, gleaned from the history of past years, which would afford gentlemen the means of approaching the truth in making an estimate of the probable benefits of a free commerce into the Black Sea.

After being closed by the Turks upon all the world for near three hundred years, from 1476 to 1774, the passage of the Black Sea was opened to Russian vessels by treaty in 1774. On the 25th of June, 1802, by a treaty formed at Paris, the French flag was admitted into the Black Sea;

and, shortly after, the liberty of navigating it was successfully demanded by, and yielded to, the other commercial European Powers.

In 1803, 815 vessels took in cargoes in the Russian ports of the Black Sea: 552 at Odessa, 210 at Taganrog, 23 at Caffa, 19 at Kosloo, 7 at Sevastopol, and 4 at Cherson. Of these, 421 were Austrian, 329 Russian, 18 Ragusan, 16 Ionian, 15 French, 7 English, 6 Idriots, and 3 Spanish.

In 1817, 1925 vessels entered the port of Odessa alone: 480 Russian, 188 Austrian, 154 English, 43 French, 18 Spanish, 49 Swedish, 31 Sardinian, 65 Turkish, 7 Danish, 7 Neapolitan, 2 Sicilian, and 881 Russian, engaged in the coasting trade. In the same year, 400 entered the port of Taganrog. In 1808, there was an importation at Odessa of 33,131 bales of cotton. In 1817, the freight of a single article of commerce, wheat, shipped to Leghorn from the Black Sea, amounted to \$1,350,000. All these facts related to the Russian dominions: when it was taken into view that the Turkish dominions on the borders of the Euxine included large cities, with a population exceeding 260,000 souls, standing on the borders of rich settlements, one of them, Trebisonde, in the direct line of intercourse with the Persian Gulf, it might be fairly concluded that the owners of our ships would find, if true to themselves, profitable employment for their now almost useless property. The prospect of present advantage was nothing when compared to that which might be anticipated hereafter. The Black Sea had been, at more than one era, the heart of an active and lucrative industry. Prior to the establishment of the Ottoman empire, its waves had been ploughed by the keels of all commercial nations. Its shores had been studded with populous and prosperous cities, and with productive settlements. Under the power of Russian despotism, which is operating as the genius of civilization in that portion of the globe, it is again becoming the centre of attraction to commercial enterprise. The Russian dominions, from the mouth of the Danube to the ports of St. Nicholas, south of the Phasis or Rione, are advancing in population and wealth with a rapidity unexampled in the history of the old world, and rivalled only by the almost incredible progress of our own country. Sanguine tempers might be deceived in their estimate of the benefits to the country to be derived now or hereafter from this successful effort at negotiation. Mr. F. believed the country would applaud those who had made it, should the hopes of profit be disappointed, realized, or exceeded.

Mr. F. could not dismiss the subject of this appropriation, without again remonstrating on the course of the Senators from Virginia; against the unusual—the anti-American substitution of the irresponsible for the responsible. There was no head too high, no bosom too sacred, to be reached by the stroke of patriotism, if justice demanded the blow. Mr. F. spoke not to shield individuals; he remonstrated against the erroneous and dangerous principle acted upon, from public considerations. It was not Virginia. He deprecated it for the honor of the Ancient Dominion, from whose soil he sprang; for he, too, was a Virginian. Virginia had heretofore struck at the loftiest objects; the lightning of her indignation had shivered the gnarled oak—had not glided through its branches to blast the saplings that grew around its noble trunk. The Chief Magistrate and his Secretaries stand upon their respective responsibilities; let them be judged by facts, and upon facts only; and each in his respective sphere was ready to receive, and submit to the judgment of the people. If any or all of them deserve condemnation, let them perish; by Mr. F. they would fall unpitied and unwept.

Mr. SMITH, of Md., said he rose because he did not perceive that any other Senator was disposed to speak on the subject, and because he thought it his duty, as chair-

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man, to sustain the amendment proposed to the appropriation bill by the Committee of Finance. What is that amendment? said Mr. S. Simply an appropriation to pay certain persons employed by the late President to negotiate with the Ottoman Porte, in which they had been nearly successful; and to pay certain other persons appointed by the present President, who had completely succeeded in making an excellent treaty with the Porte. Both commissions had similar powers and similar instructions. The treaty has been confirmed by the Senate; has been highly approved; and the question is, will you pay for the labor actually performed? An amendment has been offered by a Senator, [Mr. KANE,] to apply a sum fully adequate to the object in aid of the contingent fund, to enable the President to remunerate the parties in such manner as he may think proper. Either mode will be equally agreeable to me. All that the committee require is, that the persons employed shall be paid; and they are willing to adopt the amendment proposed, as they find that amendment most approved of by the Senate. It is proper, however, for me to state, that the committee had had before them both modes of remuneration, and, after consideration, proposed bringing the subject before the Senate in a substantive form, so that all who read might understand the object, and because they deemed it to be more consistent for Congress to designate what they meant to pay to each person, than to leave to the Executive discretion to allow what they pleased. The Senator from Georgia has shown a precedent in the case of Mr. Rodney, who, it was determined by Congress, should be paid from the contingent fund, and I acquiesced.

I little thought, Mr. President, that a constitutional question would or could have been raised upon a question to pay for services rendered; it has, however, and we must meet it as best we can. Early in my political life, I asked a friend whether it was true that "Rhode Island was without a written constitution;" he answered that "it was true;" that they did well under their charter from Charles; and he added, "that a written constitution was like a nose of wax, which could be moulded into a flat nose, a Roman, a Grecian, or pug nose, and in like manner an ingenious man might, he said, make the constitution of the United States to mean something, nothing, any thing, or every thing." We have seen that it has been made to mean every thing, by the construction put on the words "general welfare;" and the very ingenious Senator from Virginia shows that he thinks that it may be made to mean any thing. He contends, first, that the President has not the power to send a minister to a foreign court during the recess of the Senate, where no minister had previously been sent; that it is a new office which he has not the power to create alone; and, secondly, that the President has not the power to send a commissioner in the recess of the Senate, as a secret agent to treat with a foreign nation, without nominating such agent to the Senate.

Those subjects have been ably, and, to my mind, satisfactorily discussed by the Senators from Louisiana and Georgia; nor would I enter on those subjects, if the Senator from Virginia had not, in a manner very pleasing to me, observed, that I had been consistent in my opinion of the constitution on the first point; evidently conveying the idea, by his manner, and by what he said, that I studied more the expediency of a measure, than the true meaning of the words of the constitution. It therefore made it incumbent on me to state my understanding of the points submitted by that Senator. We are all bound by our oaths "to support the constitution of the United States." Each will, or ought to be governed by his conscience, and by his own judgment. I meddle not with those of that Senator, or any other; they are their own. I bottom the opinion I shall give on the powers vested in the President, in part, from never having heard the first doubted until the discussion on the Panama mission; and

of the second, until this time. I consider both those powers as admitted. They may have been mooted. I will not say they have not. If they ever had been, it has totally escaped my recollection. My construction of the constitution is, "That ministers to foreign nations, is an office created by the constitution, and not by law." The article says, "that the President shall have power to appoint ambassadors, and other public ministers, by and with the advice and consent of the Senate." Again, he shall have power to fill up all vacancies that may happen during the recess of the Senate. I contend that the office of minister is an original vacancy, and that it can be filled in the recess of the Senate, to any place that, in the mind of the President, a minister may be required, by the exigency of the case. If the Senate think that such an exigency does not exist, they can reject the nomination, which must be sent to it on the first session thereafter, and this is the power of the Senate; more than that they have not, and, in my opinion, that power is amply sufficient for the correction of any probable evil that might arise from such a power. I will state a case. We have never had a minister to Austria. The President might, in my opinion, send, in the recess, a minister to that court. He has, I think, the power under the constitution, and we have the power to reject. Am I alone in this opinion? No, sir, my learned friend from Louisiana holds the same. We were both fellow-laborers on the democratic side a long time past, and both agree that it had been a received opinion. Have I, Mr. President, no other authority? Yes, sir, that of the great apostle of the democratic party, Mr. Jefferson. He gave a practical illustration of his opinion; and, with all proper deference to the Senators of Virginia, I must think that he was as able an expounder of the constitution as those gentlemen. Mr. Madison was then the Secretary of State, and must have concurred in the act, which he did. We have all been in the habit of believing that he was an expounder of the constitution, in whom we might safely trust; and yet the Senator [Mr. TAZEWELL] has implicated Mr. Jefferson in his charge of a violation of the constitution, by his appointment, in a recess, of Mr. Short to Russia, where no minister from the United States had been before. He did appoint Mr. Short to Russia. This amply proves that his opinion was, "that he had the power." Ay; but, says the Senator, "the Senate rejected the nomination, on the ground that the President had not the power." Admit it. Does that contradict what I have said? No, sir; Mr. Jefferson believed as I do, that he had the power, and he acted on it, which is the best possible proof. But did the Senate reject it, on the ground of its being a usurpation of power? Certainly not. I was then a Senator, and know that the rejection of Mr. Short was for causes and reasons entirely different. The question of power may have been incidentally mooted by some of our speakers. I will not trust to my memory to say that it was not. But this I can say, that, if animadverted on by any Senator, it has totally escaped my recollection. I think it would have made such an impression on my mind, that I should not have forgotten it. I repeat that it was not on the question of power that Mr. Short had been rejected. The first time I heard that the power was doubted, was on the Panama question, when Mr. Gore's resolutions were read. Those resolutions were presented on the nomination of the commissioners sent in the recess, by Mr. Madison, to make a treaty of peace with Great Britain. I was not then a Senator. Party spirit ran high at that time; and we all know that those resolutions were calculated for party purposes, merely electioneering. What was their fate? Scouted by every democratic Senator as untenable, and by some of the federal Senators. I can name three. The two members from Rhode Island, and one from Delaware. And this is the only document that the Senator has produced to sustain his charge against Mr. Jefferson, for a

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violation of the constitution—a simple resolution presented—not acted on—and not sustained by the Senate. It died, I believe, a natural death. Against those resolutions, and the opinion of the Senator, I am supported by the opinion of Jefferson, Madison, my learned friend from Louisiana, and by the conduct of other administrations, and the decision of the Senate on the Panama question. Let the people and my constituents judge which of us have produced the best authorities. But, on all constitutional questions, I am the sole judge for myself. I rest on my oath, and as my poor judgment directs.

The Senator has said, and truly said, that the constitution gives the same power to the President in the case of the appointment of judges, as it does in that of ministers to foreign nations. I agree that the power is exactly similar in every respect. He then asks triumphantly, "will any man say that the President could appoint in the recess as many judges as he might think proper?" I answer, yes—if he had not been restrained by law. I will state a case. Suppose the Senate had risen without confirming the nominations of the first judges made by General Washington; there would have been presented the anomaly of laws, without judges to expound and administer them. The President is bound by the constitution to attend to the execution of the laws. Without judges that duty could not have been performed. The constitution created the office of judge, and, in my opinion, it would have been the duty of President Washington to appoint judges in the recess, to be nominated to the Senate, at their next session, for their approbation or rejection. Offices recognised by the constitution or the laws must be filled by the appointment of the President during the recess of the Senate, when the public good requires it; and the corrective of his exercise of this power lies in the Senate's power of rejecting. "But," said the same Senator, "we have now seven judges; can the President appoint an eighth in the recess of the Senate?" I answer, no: because the law has established the number, which he cannot exceed, and that number is seven. He could not appoint an eighth either in the recess or during the session of the Senate, until the law is altered, and an increase of the number authorized.

The Senator [Mr. TAZEWELL] has emphatically told us, not on his opinion, but positively, peremptorily, that "the President had committed a palpable violation of the constitution in sending commissioners in the recess to make a treaty with the Porte, without nominating them to the Senate, in derogation of the rights of this body." This, Mr. President, is a grave charge against that high officer. What is the meaning of the word "palpable?" Johnson says that one of its meanings is "plain, easily perceptible." That is to say, so plain and easy to be understood, that he who reads must understand. Is it then so plain? It appears that the gentlemen from New Hampshire, Louisiana, North Carolina, and Georgia, do not find it so plain; they cannot, they have said, see any violation whatever, nor can I; nor has any of all our Presidents been able to see it. For, sir, in all but one of the administrations the same act has been done. All the Presidents have, then, been violators of the constitution; the Senate also, for every Senate has sanctioned the violation. And now, for the first time, it is to be understood that it is a violation; and it is to be charged home on Andrew Jackson, as the only one who has committed the sacrilege. Is this fair, is it proper? When the Senator must have known that Gen. Jackson had pursued and acted upon the course of all his predecessors from Washington, down, as well as on his own opinion. The President is the only responsible officer. It will not do to go behind him to attack the Secretary of State, (for I think it probable that he alone was consulted, and he alone was the adviser.) It will not do for the Senator to say that he, the President, knew little of the subject, and acted because he was ignorant, and therefore ought to be excused. No, sir; if he has done

wrong, if he has palpably violated the sacred instrument that he has sworn to support, ignorance can be no plea; and this excuse for him is a more violent insult than any that could be offered; at least so I understand it. But, Mr. President, has there been any violation of the constitution? The Senators who have preceded me, think not, and I concur with them in opinion. Has any President ever submitted to the Senate the nomination of commissioners such as those under consideration? Never: I challenge those Senators to show one solitary instance. I do not confine my question to Mahometan but to christian Powers, which if they cannot, (and I know they cannot,) then how can the Senator [Mr. TAZEWELL] charge the President, General Jackson, with having committed "a flagrant usurpation of power, in flagrant derogation of the powers of the Senate?" How can the Senator from Virginia urge "that he may like the treason, therefore voted for the treaty, but detests the traitor."

Mr. President, rising so late in the debate, I have found all that I mean to say taken from me by the Senators from Louisiana and Georgia, and more ably certainly than I would have conveyed them. I may, however, be pardoned for following them, and perhaps repeating after them. It cannot be too often urged that General Jackson has pursued the precedent set him by all, or almost every one of his predecessors. The Senator from Louisiana has read to you a variety of instances of commissioners who had been sent by different Presidents, treaties made by them, and confirmed by the Senate without any nomination, and not a word lisped of its being unconstitutional: the Senate thus confirming the constitutionality of the power that had been exercised. The Senator from Georgia has produced others. One by General Washington in 1795. In that, the power under the great seal and the sign manual of the "Father of his Country," was given to Mr. Humphreys, then a consul or minister resident (I know not which) at Lisbon to make a treaty with the Emperor of Morocco. Mr. Humphreys transferred his powers to Mr. Simpson, who made a treaty which became the law of the land. Was either Mr. Simpson or Mr. Humphreys ever nominated to the Senate? Never. Not a whimper of unconstitutionality. The Senate slept at their post, and now General Washington is found by the Senator from Virginia to be a palpable violator of the constitution. Again, Messrs. Rodney, Bland, and Graham were sent as commissioners to the South American States—christian States. Were they ever nominated to the Senate? No, sir. The late President gave a commission to Mr. Offley and Commodore Crane, to treat with the Porte. Were they ever nominated to the Senate? No, sir. So that Mr. Adams was also a violator; Mr. Jefferson, Mr. Madison did the same. Mr. Monroe followed after, and acted in like manner. Where were the advisers of those gentlemen. Where the advisers of Mr. Monroe? For it is well known that he acted on full advisement of his cabinet. Where, I ask, were they all, that they did not prevent him from committing this presumed violence of the constitution? Were they all asleep at their posts? We must conclude that none of them considered it a violation of power.

The Senator from Virginia said that it would be a thing unheard of, unknown to the history of the world, "that a Power at war should send a minister to the Power with which it was at war." Why, Mr. President, the Senator's reading and mine must have been very different. Mine says, that there is no event more common. I am now reading Sismondi's Italian Republics. The small States of Italy were in almost perpetual war with each other; and nothing more common than the sending ministers from one city to the other to treat whilst war raged between them. But, sir, I will read some recent cases, some in which we had an interest:

"Preliminary articles of the treaty of peace between

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France and Great Britain, signed at Versailles, 20th January, 1783.

"The most Christian King and the King of Great Britain, wishing to put an end to the calamities of war, nominated to that effect, on the part of the former, the Count of Vergennes, and, of the latter, Alioyn Fitzherbert, Esq. minister plenipotentiary of his said Majesty the King of Great Britain, who, having communicated their full powers in the form, have agreed upon the following preliminaries:"

SECOND.—Preliminary articles of peace signed at London, 1st October, 1801, between Lord Hawkesbury and Louis William Otto. They communicated their full powers in due form, and then agreed upon the articles.

In 1797, Lord Malmesbury was sent to Lisle, a city of the French republic, as ambassador with full powers to conclude a peace.

In 1806, Lord Lauderdale was sent to Paris to negotiate a treaty of peace.

Permit me to submit another; a very strong one. Queen Anne wanted peace; the allies were not so disposed, and she sent a secret agent, Matthew Prior, I believe a poet. He was not suspected; for who would suppose that a poet would be sent on a subject so important? He concluded the peace. It was then made public; and the Queen withdrew her troops from the allied army.

The late period of the session warns me that I ought not to occupy any more of your time, and I conclude with a hope that the discussion may now terminate.

Before I sit down, I will notice an observation made by the Senator, [Mr. TAZEWELL.] He significantly sneered at the employment of consuls and captains of our ships of war being clothed with plenipotentiary powers to make treaties. "Consuls!" said he, "What! are they superior to justices of the peace? Captains of the navy with their commission in their pockets," significantly. And yet, sir, consuls and captains have been so employed by the best of our Presidents. Washington employed Mr. Consul Humphreys, as has been shown. Jefferson employed Mr. Lear and Captain Preble to treat with Tripoli. Madison employed Consul Shaler and Captain Decatur to treat with Algiers. John Quincy Adams employed Captain Rodgers to sound the Turk, that he might know his disposition to make a treaty, and actually appointed Consul Offley and Captain Crane to make a treaty with the Porte; and General Jackson has employed consuls Rhind and Offley, and Captain Biddle, to make a treaty. They have done so to the satisfaction of the Senator. And now, for the first time, is fault found that such persons have been employed. Why? Because General Jackson has so acted, sir. We all understand the cause, and so will the people. I have done.

No other Senator rising to debate the subject, the Senate proceeded to take the question.

For the convenience of the reader, the various amendments are here repeated. The Committee of Finance of the Senate had reported the following additional items to the appropriation bill:

"For the outfit and salary of an envoy extraordinary and minister plenipotentiary; for the salaries of a secretary of legation, of a drogoman, and a student of languages, at Constantinople, and for the contingent expenses of the legation, seventy-four thousand dollars: that is to say, for the outfit of an envoy extraordinary and minister plenipotentiary, nine thousand dollars; for the salary of the same, nine thousand dollars; for salary of a secretary of legation, two thousand dollars; for the salary of a drogoman, two thousand five hundred dollars; for the salary of a student of languages, one thousand five hundred dollars; for the contingent expenses of the legation, fifty thousand dollars.

["For compensation to the commissioners employed in negotiating a treaty with the Sublime Porte:

"To Charles Rhind, an outfit of four thousand five hundred dollars, deducting therefrom whatever sum may have been paid to him for his personal expenses.

"To Charles Rhind, David Offley, and James Biddle, at the rate of four thousand five hundred dollars per annum for the time that each of them was engaged in the said negotiation.

"For compensation to the commissioners employed on a former occasion for a similar purpose:

"To William M. Crane and David Offley, at the rate of four thousand five hundred dollars per annum for the time that each of them was engaged in the said negotiation."]

Mr. TAZEWELL had moved to strike out all the foregoing included in brackets.

Mr. KANE's amendment was as follows:

Strike out all after the word "compensation," in the first line of the second paragraph above quoted, and insert "to the persons heretofore employed in our intercourse with the Sublime Porte, the further sum of fifteen thousand dollars, in addition to the sum of twenty-five thousand dollars appropriated for the contingent expenses of foreign intercourse."

This motion of Mr. KANE to strike out and insert having precedence of Mr. TAZEWELL's motion, the question was taken thereon, and decided in the affirmative, as follows:

YEAS.—Messrs. Barnard, Benton, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hendricks, Iredell, Kane, King, McKinley, Poindexter, Robbins, Robinson, Sanford, Smith, of Md., Smith, of S. C., Troup, Woodbury.—22.

NAYS.—Messrs. Barton, Bell, Bibb, Burnet, Chambers, Chase, Foot, Frelinghuysen, Johnston, Knight, Livingston, Marks, Naudain, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Tyler, Willey, Webster.—21.

The question was then taken on the following proviso, moved by Mr. TYLER, to be added to Mr. KANE's amendment, viz.

"Provided, always, That nothing in this act contained shall be construed as sanctioning, or in any way approving, the appointment of these persons by the President alone, during the recess of the Senate, and without their advice and consent, as commissioners to negotiate a treaty with the Ottoman Porte."

Which was agreed to by the following vote:

YEAS.—Messrs. Barnard, Barton, Bell, Burnet, Chambers, Ellis, Foot, Frelinghuysen, Hayne, Hendricks, Iredell, Johnston, King, Knight, Marks, Naudain, Poindexter, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Tyler, Webster, Willey.—25.

NAYS.—Messrs. Benton, Bibb, Brown, Chase, Dickerson, Dudley, Forsyth, Grundy, Kane, Livingston, McKinley, Robbins, Robinson, Sanford, Smith, of Md., Smith, of S. C., Troup, Woodbury.—18.

Mr. TAZEWELL then withdrew his motion to strike out, and the united amendments of Messrs. KANE and TYLER consequently became a substitute for that part of the amendment reported by the Committee of Finance, providing for the compensation of the commissioners appointed to conclude the treaty.

Mr. WEBSTER then submitted the following amendment:

Strike out all that relates to the outfit and salary of a minister plenipotentiary, &c. and insert—

"For the outfit and salary of a chargé d'affaires; for the salary of a drogoman, and a student of languages, at Constantinople, and for the contingent expenses of the legation, thirty-eight thousand dollars: that is to say, for the outfit of a chargé d'affaires, four thousand five hundred dollars; for the salary of the same, four thousand five hundred dollars; for the salary of a drogoman, two thousand five hundred dollars; for the salary of a student of languages, one thousand five hundred dollars; for the contingent expenses of the legation, twenty-five thousand dollars."

Mr. WEBSTER said that this subject had been presented to the Senate in a double aspect by the President of the United States—the choice appeared to be left to



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that body whether they would send a minister plenipotentiary or a chargé d'affaires to the court of Constantinople; and the Committee of Finance had submitted an appropriation for the salary and outfit of the former. One of the letters read to the Senate, that from Mr. Olney, who certainly appeared to have had some experience on this subject, suggested the propriety of sending a chargé d'affaires, and in this opinion he [Mr. W.] most heartily concurred. Mr. W. spoke at some length in favor of his motion; said he could see no very great necessity for the mission—that he thought our relations with Turkey would continue pretty much in the same state as before—and that, for some time to come, our consul at Smyrna would be the most important agent of the United States in that quarter of the world. He spoke of the large salaries of the ministers of foreign Powers at the court of Constantinople, the great show and parade they made there, wholly for effect, and said that, if our ministers complained of the incompetence of their salaries at the courts of the civilized Powers of Europe, there certainly would be more cause of complaint at Constantinople. He would like to know whether the mission was to be continued; whether a similar call for salaries, &c. would be made next year; spoke of the large amount appropriated for contingencies; and asked if it was supposed that the minister could support himself at a salary of \$9,000 per annum. If a representative must be sent, he thought a chargé d'affaires would be competent to perform all the necessary duties; though, even if his amendment prevailed, his opinion was, that another mission in Europe should not be established. He was not in favor of an increase of missions—he would rather reduce some of those now existing.

Mr. KING said that the subject had been submitted to the Committee of Finance without any recommendation from the Executive; and, after consultation, that committee had come to the conclusion that it would be best to submit an appropriation for the salary of a minister plenipotentiary. The salary would command the services of an individual who would be qualified to sustain the character and standing of the country, and enable him the better to keep up a suitable establishment. He was under the impression that it would not be necessary to keep a minister at Constantinople for any great length of time. The contingencies of the mission would not be greater than at the court of any other Power, except in the first instance; and this to comply with the usual custom there to make presents on the ratification of a treaty.

Mr. WOODBURY was in favor of the amendment submitted by Mr. WEBSTER.

Mr. FORSYTH also preferred the amendment; though he saw no necessity, he said, for political relations between this country and Turkey.

Mr. SMITH recapitulated the views of the Committee of Finance in providing for a minister plenipotentiary, and said the Government did not intend keeping him there more than one year. The object was to send a minister of the highest grade, in the first instance, whose duty it would be to exchange the ratifications of the treaty, and afterwards a chargé d'affaires would be amply sufficient. A minister plenipotentiary, he remarked, had access to the Sultan; a chargé could not approach beyond the Grand Vizier.

The question was put on the amendment submitted by Mr. WEBSTER, and determined in the affirmative, as follows:

YEAS.—Messrs. Barnard, Barton, Bell, Benton, Brown, Burnet, Chambers, Chase, Clayton, Dickerson, Foot, Forsyth, Frelinghuysen, Grundy, Hayne, Hendricks, Holmes, Iredell, Johnston, Kane, Knight, McKinley, Marks, Naudain, Poindexter, Robbins, Robinson, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Troup, Tyler, Webster, Willey, Woodbury.—37.

NAYS.—Messrs. Bibb, Dudley, Ellis, King, Livingston, Sanford, Smith, of Md.—7.

And then the Senate adjourned.

SATURDAY, FEBRUARY 26.

The resolution yesterday offered by Mr. BENTON relative to the foreign commerce of the United States, was taken up for consideration; when Mr. B. remarked that he had not submitted the resolution with a view to its being acted on at the present session, but that it might receive the early consideration of the Senate at the next stated session of Congress. On his motion, it was laid on the table, and ordered to be printed.

The bill from the House of Representatives making appropriations for carrying on certain roads and works of internal improvement, and providing for surveys, was twice read, and referred.

## NATIONAL ROAD IN OHIO.

The bill granting the assent of Congress to an act of the General Assembly of Ohio, for erecting toll-gates, &c., and otherwise providing for the preservation and repair of the United States' road within the limits of that State, was read the third time, and the question being on its passage,

Mr. POINDEXTER opposed the bill at some length, on the ground that the General Government had no power to give the authority proposed to the State of Ohio. If the right to collect tolls existed in the State, the permission was not only useless, but a usurpation of power on the part of the General Government over the rights and sovereignty of the State. If, on the contrary, the right belonged to the General Government, it was a power not transferable, as no legislative power could be. He cited the only clause in the constitution which gave a pretext for interfering with the internal regulation of a State—that relating to imposts. He asked what they were about to do? To pass a criminal law for the State of Ohio! For this was a bill enacting severe pains, penalties, and fines. It was also a law to create a local tax, which no article in the constitution had ever sanctioned. To contend that Congress possessed such powers, would be admitted on all hands to be an absurdity. He would willingly give up this road to the State—transferring all the right, title, and interest the General Government had in it—but he could not consent to any interference with State rights. He, therefore, felt constrained to ask for the yeas and nays on its final passage.

They were accordingly ordered.

Mr. HENDRICKS said, some power must have an interest in this road. If it existed in the General Government, its preservation belonged to that power; but that Government had already declared that it would not erect toll-gates upon the road; and, if we refuse to preserve the road, why should we not allow some one else to do it? If we go upon the principle, that the right to do this exists in the State of Ohio, what harm can there be in our declaring our assent to the passage of this law by that State? Her proposition is certainly a liberal one; and all admit the necessity of keeping the road in repair. He thought the proposition to transfer the road to Ohio would be much more objectionable than the present one could be considered. The citizens of other States, Indiana, for instance, had a deep interest in it. It was their great thoroughfare, and its cession to a State would be a gross violation of the compact formed in its original construction.

The bill was then passed, by a vote of twenty-nine to seven, as follows:

YEAS.—Messrs. Barnard, Barton, Bell, Benton, Burnet, Chambers, Chase, Clayton, Dudley, Foot, Frelinghuysen, Hendricks, Holmes, Kane, Knight, McKinley, Marks, Naudain, Robbins, Robinson, Ruggles, Sanford, Seymour, Silsbee, Smith, of Md., Webster, Willey, Woodbury.—29.

NAYS.—Messrs. Brown, Ellis, Hayne, Iredell, Poindexter, Smith, of S. C., Troup.—7.

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*Duties on Iron.*

[SENATE.]

## DUTIES ON IRON.

Mr. HAYNE, from the select committee to which was referred sundry memorials praying for a reduction of the duties on imported iron, and others remonstrating against the reduction, made a report in favor of reduction, and moved that it be printed.

Mr. DICKERSON said, the report was from the majority of the committee; the sentiments of the minority were directly at variance with those of the majority. The report had come under his eye for the first time on yesterday, and he had not yet had time to prepare a report of the views of the minority. He should probably be able to do so on Monday. He thought the views of both parties should go to the world together, and he therefore hoped the printing would not be ordered until the counter report was ready to go with the report of the majority of the committee. He moved to lay the report on the table, but withdrew the motion at the request of

Mr. KING, who said the statement made by the Senator who had just taken his seat, was one of the most extraordinary he had ever heard. Committees were seldom unanimous; it was generally the majority of the committee which reported measures for consideration. If the minority were not satisfied, they had always an opportunity to present their individual views. He believed such a thing as a counter report had not been known in this body from the first commencement of the Government. It had been done, he believed, in the House of Representatives. When the report was made to the House, the committee ceased to exist, and it was not in the power of the minority to make a report.

Mr. DICKERSON thought that the views of the two branches of the committee should be published together. It was a frequent custom in the House of Representatives, and should be so here. The minority should have as good an opportunity to present their views as the majority of the committee.

Mr. HAYNE said this was the first proposition he had ever heard in that body to prevent the printing of a report of a committee. The honorable chairman of the Committee on Manufactures [Mr. DICKERSON] had made his reports, year after year, and no objection had ever been made to the printing of them. The report contained nothing more than the views of the committee, and the only object was to have it printed. The objection of the gentleman was, that he had not had time to prepare his views on the subject, and, therefore, the report of the committee must not be printed. How was it possible for the honorable Senator to make a report on the part of the minority, when the committee had made its report, and were consequently dissolved? If the gentleman wished to present his views, he could do it in writing or otherwise. He had understood that there was so much work in the hands of the public printer, that, if he did not get this report now, it could not be printed during the session. He hoped the gentleman would not renew the motion to lay the report on the table.

Mr. BROWN said, it appeared that an entirely new rule was about to be pursued by the Senate—one unparalleled in the annals of legislation—that subjects were to be sent to committees totally hostile to the objects asked by the memorialists, and known to be thus hostile. And when those who are friendly to a reduction of the existing burdensome system of taxation, had been so fortunate as to get this subject referred to a committee favorable to their views, and that committee had made a report to that effect, a new rule was to be adopted, and that report suppressed. Sir, said Mr. B., political truths have nothing to fear from the most scrutinizing investigation. Do gentlemen fear light upon their favorite schemes, that they would thus clude inquiry on this subject? Was this a time when the people of this country had every reason to demand a reduction of an oppressive system of taxation,

that even the ordinary courtesy of printing a report, looking to that object, was to be refused? He would draw no other inference from such a course, but that it was to arrest the progress of truth, and prevent information from going abroad on this subject among the people—a principle at war with our free representative Government, which should seek, on all proper occasions, to enlighten public opinion on questions so deeply involving their interests, rather than to suppress information; it was characteristic of that course of policy which arbitrarily laid under contribution the industry of the great mass of the American people, for the benefit of a comparatively small number of capitalists. He expressed a hope that the report would be printed, and its arguments placed before the people for their calm consideration. He said he had great confidence in the justice and liberality of the Northern and Eastern sections of the country. Public opinion, in some of the Eastern States, he believed, was becoming adverse to a continuance of the restrictive policy; and he thought he could see a light arising in that direction, which assured him that the days of this "system" were numbered.

The spirit of liberty which had early distinguished the people of that portion of our country, would not much longer tolerate a system which flourished alone by sacrificing the interests of the many to those of the few. He believed it was now becoming well understood, that an excessive degree of taxation was not protection but oppression.

Mr. HOLMES said he was disposed to hear both sides of this question, and, therefore, he was in favor of allowing both reports, as they took different views of the subject, to go out together. The gentleman from New Jersey [Mr. DICKERSON] says he will be prepared on Monday to submit the views of the minority; and, for his own part, he should prefer to see them go together. He could then be in favor of printing a larger number of copies. This had not, perhaps, been the usual practice of the Senate, but it certainly had been of the other House. He instanced particularly the report of the Committee on the Seminole War.

Mr. BELL said, the object of appointing committees was, to digest the subjects referred to them, and obtain their views in aid of the action of the Senate. In this instance, the committee had not only disagreed in relation to facts, but widely disagreed in their opinions deduced from those facts. The minority ask to give their views in conjunction with the majority. Without this, he conceived that they could get but a one-sided view of the matter. He asked who it was in the present case that appeared to be anxious to shut out the light? It surely was not the minority. They do not shrink from investigation. They rather court it. At this late period in the session, it was evident that there could be no legislative action upon it now. In relation to its being unparliamentary, he thought all legislative bodies should be governed in their rules by the eternal principles of justice.

Mr. WEBSTER said it would give him pleasure to gratify the views of all in the disposal of this subject. He was willing to give the people all the information on this topic that could be given. He could freely trust them with the disposal of it. Though the report had not been read, it was plainly understood that it was opposed to the opinions heretofore entertained and expressed by the Senate; and it was due to the people not to hold out to them the expectation that the existing policy was about to be changed, unless that expectation was soon to be realized. The gentleman from North Carolina, [Mr. BROWN,] he conceived, had misapplied the rule he had adverted to. There was no particular parliamentary usage which was binding in the case. When a legislative body had come to a definite conclusion upon a subject—when its principles were settled, it could then have no hesitation in the

SENATE.]

*Duties on Iron.*

[FEB. 26, 1831.]

direction to give it. But, suppose a proposition should come before them on which it would be quite impossible for them to act—a dissolution of the Union, for instance—could the rule then apply?

Mr. W. said he could have no motive in wishing to withhold the printing of this document; on the contrary, he would be willing to have a larger number printed; but he thought it was due to all that both sides of the question should be heard. In relation to the report, he could entertain no doubt, from the respectable character of the committee, that it contained many able arguments and clear views of the subject. He would go further. He had no doubt he would approve of it on many points. There were some positions taken in the memorials referred, which met his hearty concurrence.

After some further observations,

Mr. W. moved that the report be printed, and referred to the Committee on Manufactures. This course would, perhaps, meet the views of all.

Mr. BROWN said he disagreed with the gentleman from Massachusetts [Mr. WEBSTER] most widely in his views of parliamentary usage. He contended that it was the practice to commit matters to a committee favorable to the accomplishment of the propositions they contained. Such was the doctrine of Jefferson, and such was the doctrine laid down by all the British writers on parliamentary law. The reasoning was, that the lamb should not be sent to the wolf—that being to ensure its destruction. It did not, of course, apply to the case of bills peculiarly disrespectful to the feelings of all, or in direct contravention to the spirit of the constitution—such as the one referred to by the gentleman from Massachusetts, [Mr. WEBSTER,] proposing a dissolution of the Union—and he hoped these words were not used by that gentleman invidiously.

Mr. WEBSTER. Not at all—I had no such intention.

Mr. BROWN. For I will not yield in my attachment to this Union, even to the honorable Senator from Massachusetts.

Mr. TYLER addressed the Senate in opposition to the motion of Mr. WEBSTER to refer the report to the Committee on Manufactures. A report on the same subject had been made by that committee at the last session. He thought that one must be very fond of scribbling, (though he did not doubt the purity of the gentleman's motives,) to wish to make a report on the same subject every year. This report was merely a counter report to that submitted by the honorable gentleman last year—a rejoinder. We have now, said Mr. T., our butter and our rebutter. The honorable chairman, he contended, could attain his object simply by ordering his last year's report to be printed with this, and let them go to the world together. He presumed that no alteration had been made in the gentleman's views upon the subject within the last year.

Mr. DICKERSON replied. He was sure the delay till Monday was an inconsiderable one; but he was willing the question should first be taken on the motion of Mr. WEBSTER to refer it to the Committee on Manufactures.

Mr. HAYNE then rose, and said, that he now distinctly understood that the proposition in its present form is, to recommit the report of the select committee before it had been either read or printed—before any member of this House (except the committee) are even acquainted with its contents; and to do this when it is known that the effect of the recommitment will be to prevent the printing of the report during the present session. But this is not all; it is proposed to commit a report (of the contents of which nothing is known, but that it is favorable to a reduction of the duty on iron) to the Committee on Manufactures—a committee known to be opposed to such a reduction. Such a motion, made under such circumstances, he would undertake to say, was not only without an example in the history of either branch of Congress, but without a parallel in the history of parliamentary pro-

ceedings any where. When a committee had examined any subject submitted to them by the Senate, and had made a report, the printing of such report for the information of the members was altogether a matter of course. It is not even proposed to print any extra number of copies for distribution, but simply to print the report for the use of the members, as every bill, every report, and every resolution, is disposed of by the uniform practice of this House. Mr. H. said he had now been a member of the Senate for near eight years, and he had never known an objection made to printing the report of any committee, on any subject; and he called upon every member of this body to say whether they ever knew or heard of such proceedings. The mere act of printing a report, committed the Senate in no way to an approval of any thing it contained—it was merely for information, and to enable the Senate to judge what course ought to be taken with regard to it. The Senate might agree or disagree to the report, or might, after examination, recommit it for further examination. But here they were called upon to take an important step, which, in parliamentary usage, amounted to a decision that the subject had not been fairly examined—without even making themselves acquainted with the contents of the report. Mr. H. would present, in behalf of this committee, no claim to the respect or consideration of the Senate, which was not due to every committee which they might think proper to create. But he could say that an act more unprecedented or extraordinary could not be conceived, than to raise a committee, refer to them an important question, and, when their report is received, without hearing it read, or having it printed, to refer it back to another committee (and one known to be hostile) for re-examination. Why was it, he would ask, that such a course was to be pursued on the present occasion? Because it was deemed necessary that the views of those favorable to a reduction of duties should not have the same opportunity of being known, that had invariably been extended to views of an opposite character. For years past has the Committee on Manufactures issued their annual reports, pointing out the excellencies of the American system, and deprecating any reduction of duties whatever. Only last year, a report was made by the gentleman from New Jersey, [Mr. DICKERSON,] in reply to a memorial of these very Philadelphia blacksmiths, denouncing them and their petition. These reports had all been printed and circulated without objection. In no instance had the attempt been made to force upon the Senate a counter report, or to send out an answer along with the report. We have waited until we could have a chance of presenting our views of this question. For the first time in several years, this has been now afforded us; and yet gentlemen rise up, and refuse us the poor privilege even of being heard. The Committee on Manufactures, and the gentleman from New Jersey, who is at their head, have been heard—repeatedly, fully, and patiently heard. They were heard last year on this very question—the reduction of the duty on iron. We now claim to be heard in reply, and it is to be refused us. Gentlemen refuse even to listen to what we have to say. After they have heard us, let them, if they choose, recommit our report or disagree to it, or dispose of it as they think proper. But to condemn it unheard, to commit it without knowing its contents, he must consider as the most exceptional proceeding that he had ever witnessed here or elsewhere. In another view of this question, it was still more objectionable. The subject of the reduction of duties was one which had deeply excited a large portion of this Union. Are we to be told, said Mr. H., that we are not to be heard? This is a subject, Mr. President, in which I am afraid to trust my feelings. I came here, sir, with very slender hopes, indeed, I can hardly say that I had any, that this system would receive some modification from Congress. I am sorry to say that

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General Appropriation Bill.

[SENATE.]

I have so far perceived no indications of any disposition here to relieve the people from the burdens of this protecting system. For this, I was, however, prepared; but, I will confess, sir, I was not prepared for a deliberate refusal, on the part of the Senate, even to print a report presenting our views, to find them condemned, unheard, and unknown, by an instant recommitment of the report to the Committee on Manufactures—a committee known to be hostile to them, where the report must remain buried for the remainder of the session. If this must be so, I claim a solemn decision on so important a question, and, therefore, ask that it may be taken by yeas and nays.

They were ordered.

Mr. WEBSTER said he was very sorry to see that this subject should excite any warmth in the gentleman from South Carolina, [Mr. HAYNE.] He disclaimed the motives attributed to him. He denied any intention to prevent the sentiments of the committee from being heard. Had he not said he would vote for any number of copies the gentleman might propose? What grievance, then, was there in the course proposed? The gentleman had already remarked that the business before the public printer was so pressing, that, unless it was delivered immediately, it could not be performed. It was objected to referring the report without reading. It was with a view to save the time of the Senate, that this course was proposed. After some further remarks, Mr. W. concluded, by saying he should still vote for the printing, and reference of the report to the Committee on Manufactures.

Mr. KING, and Mr. SMITH, of Maryland, next addressed the Senate against the motion, and the question was then taken on the printing alone, and decided in the affirmative by a unanimous vote.

Mr. HAYNE asked, as a matter of justice to the select committee, that a censure might not be cast upon them in sending their report to another committee. The course proposed was unprecedented.

Mr. HOLMES said he should vote for the reference, and could not see in what manner it would be a censure on any body.

Mr. FOOT said such a course was altogether unprecedented.

Mr. WEBSTER then said that his object had been to accommodate all sides; but as he had failed in so doing, to save the time of the Senate, he moved to lay the whole subject on the table.

The question on this motion being taken by yeas and nays, it was decided in the affirmative—23 to 20.

[So the report was laid on the table, and the decision of this motion in the affirmative had the effect to prevent the printing. It is understood that the views of the committee are in favor of a reduction of the duty on iron imported.]

#### GENERAL APPROPRIATION BILL.

The Senate again resumed, as in Committee of the Whole, the bill making appropriations for the support of Government for the year 1831—the question being on agreeing to the amendment of the Committee of Finance, as yesterday amended.

Mr. FOOT rose to make a few general remarks on the increasing expenditures of the Government.

Mr. F. said, we are indeed fallen on evil times. The application of the "searching operation," mentioned by General Jackson in his inaugural address, has become indispensable to save the treasury from bankruptcy. The siren song of retrenchment, economy, and reform, has lost its fascinating charms. Broad and bold assertions will no longer be received as proof of economy, while the public documents prove them to be false; the people will no longer be deceived by these hackneyed terms, nor can the present administration be screened from censure by charging their predecessors with "wasteful extravagance," when the docu-

ments furnish convincing proof that the present is the most extravagant administration that has ever wielded the destinies of the nation. He called the attention of the Senate to the documents in proof of his assertion, and presented a statement taken from the printed reports from the departments, from which he gave the comparative expenditures between the two last years of Mr. Adams's administration, and the two first of General Jackson's.

Appropriations in 1827,	-	-	\$11,315,568 95
1828,	-	-	12,326,482 59

Making	-	-	\$23,642,051 54
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In the year 1829,	-	-	\$11,766,524 65
Do. 1830,	-	-	14,844,080 69

Total in the two first years of General Jackson's economical administration,	\$26,610,615 34		
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Making an excess of expenditure in two years, above the expense in Mr. Adams's administration, of	-	-	\$2,968,563 80
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And of this excess, nearly half in the civil list—

Civil list, 1827,	-	-	\$1,718,837 04
1828,	-	-	1,737,887 35

Making	-	-	\$3,456,724 39
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Civil list, 1829,	\$2,387,302 53		
1830,	2,352,461 81		
			\$4,739,764 34

Making an excess in the civil list alone during the two first years of General Jackson's administration,	\$1,283,039 95		
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The amount of appropriations contained in the bill for the support of Government for 1831, now under consideration, as passed by the House of Representatives,	-	-	\$2,050,779 64
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Proposed amendments by the Committee of Finance of the Senate,	121,000 00		
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Making in the whole,	-	-	\$2,171,779 64
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This extraordinary increase of expenditure speaks a language not to be misunderstood. If any Senator doubts the fact, let him examine the printed documents, and he will find the statement correct—the statement before him was taken from those documents.

Do you ask, how can these things be? It is easily accounted for by the increased expense in every department—by establishing new bureaux—by creating new offices—by increasing salaries and contingent expenses—by increasing the number of clerks—and by every other possible means for rewarding political partisans. Fifty-two additional pages in the Blue Book, of names of officers, will give some evidence of an increase in the number—the recalling of four ministers, and some *chargés d'affaires*, will account for about \$80,000 increased expense during the first year of this economical administration—the office of Solicitor of the Treasury, created at the last session to perform a part of the duties of the Fifth Auditor, as agent for the treasury, has called for an extra appropriation of near \$10,000.

Sir, said Mr. F., we need the aid and faithful services of another "radical committee;" as the select committee of 1820 has been called by the chairman of the Committee of Finance, which he himself has acknowledged saved three millions of dollars to the treasury, to arrest the progress

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Death of Mr. Noble.

[FEB. 28, 1831.]

of the Government in its downward road to bankruptcy and ruin.

The amendment was then agreed to.

Various other amendments were made, and the bill having been got through in Committee of the Whole, the bill and amendments were reported to the Senate; and

The amendment adopted on the motion of Mr. WEBSTER coming up, Mr. SMITH, of Maryland, moved to strike out from the salary of a drogoman, \$500; which was negatived.

Mr. HAYNE moved to strike out the provision for a student of languages; which was determined in the affirmative—yeas 29, nays 13.

The question was then put on the amendment of Mr. WEBSTER, as amended, and determined in the affirmative, as follows:

YEAS.—Messrs. Barnard, Barton, Bell, Benton, Brown, Burnet, Chambers, Chase, Clayton, Dudley, Ellis, Forsyth, Frelinghuysen, Grundy, Hayne, Hendricks, Holmes, Iredell, Johnston, Kane, King, Knight, Livingston, Marks, Naudain, Poindexter, Robbins, Robinson, Sanford, Seymour, Silsbee, Smith, of Maryland, Smith, of South Carolina, Sprague, Tazewell, Troup, Tyler, Webster, Woodbury.—39.

NAYS.—Messrs. Bibb, Foot, McKinley, Ruggles.—4.

Mr. BIBB moved to strike out the proviso, yesterday adopted on the motion of Mr. TYLER; but gave way for

Mr. KING, who moved to strike out all after the word "Provided," and insert a proviso more general in its nature, referring not only to the present and past administration, but to all former administrations.

After some conversation between Messrs. WOODBURY, WEBSTER, and HOLMES,

Mr. WEBSTER called for a division of the question, so as first to determine on striking out.

The question was negatived—yeas 19, nays 23.

Mr. KING now renewed a motion he had before made, to strike out from the proviso the words "by the President alone," and "a treaty," but the motion was declared not to be in order, the Senate having just determined that it would not strike out any part after the word "Provided."

Mr. BIBB now renewed the motion to strike out the whole of the proviso, which, after an explanation by Mr. TYLER, of his object in offering it, disclaiming any intention of giving it a particular application to the President, was determined in the negative, as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Chase, Dudley, Forsyth, Grundy, Kane, King, Livingston, McKinley, Robbins, Robinson, Smith, of Maryland, Smith, of South Carolina, Troup, Woodbury.—17.

NAYS.—Messrs. Barnard, Barton, Bell, Burnet, Chambers, Clayton, Ellis, Foot, Frelinghuysen, Hayne, Hendricks, Holmes, Iredell, Johnston, Knight, Marks, Naudain, Poindexter, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Tyler, Webster.—25.

Mr. KANE's amendment was amended, by striking out the words "in addition to," and inserting the words, in aid of, and thus amended was agreed to.

So the sixth amendment was agreed to as follows:

"For the outfit and salary of a chargé d'affaires and a drogoman at Constantinople, and for the contingent expenses of the legation, \$36,500; that is to say, for the outfit of a chargé d'affaires, \$4,500; for the salary of the same, \$4,500; for the salary of a drogoman, \$2,500; for the contingent expenses of the legation, \$25,000.

"For compensation to the persons heretofore employed in our intercourse with the Sublime Porte, the further sum of \$15,000, in aid of the sum of \$25,000, appropriated for the contingent expenses of foreign intercourse: *Provided, always*, That nothing in this act contained shall be construed as sanctioning, or in any way approving, the appointment of these persons by the President alone,

during the recess of the Senate, and without their advice and consent, as commissioners to negotiate a treaty with the Ottoman Porte."

The amendments were then ordered to be engrossed, and the bill to be read a third time; and then

The Senate adjourned.

MONDAY, FEBRUARY 28.

DEATH OF MR. NOBLE.

On the Senate being called to order—

Mr. HENDRICKS rose, and said, it becomes, Mr. President, my painful duty to announce to the Senate the death of my respected colleague. He departed this life on Saturday evening last, at ten o'clock. His services in this body have been faithful and uninterrupted for the last fifteen years. They have been honorable to himself, and useful to his country; but man goeth to his long home, and with him these services have terminated in the meridian of life. He had indeed lived to see his early associates in the business of this House retire to other spheres of life, or, like himself, pass silently into the grave; yet his friends might reasonably have hoped and expected for him a longer period of usefulness and distinction. On an occurrence like the present, and especially standing, as I do, in the midst of a circle so intimately acquainted with the deceased, it will not be expected of me to pronounce his eulogy; but I can speak, and I may be permitted to speak in the language of early and well-tryed personal friendship of one highly prized, not only by myself, but by the State he has so long had the honor to represent, of an individual idolized by almost every circle in which he ever moved. He was a bold and fearless politician, warm and generous in his feelings. He had a heart that responded to every advance of sympathy and benevolence; a heart formed for the most ardent attachments. Open and undisguised, the prominent traits of his character were always before the world; but a long period of familiar acquaintance could only develop the ardor, the devotion, and the value of his friendship. For such an associate, it may well be permitted us to mourn, and well assured am I, that, in paying these last honors to his memory, we are but giving expression to the feelings of every member of the Senate. His society I have enjoyed when he was in health. In sickness I have frequently been near him, and endeavored to soothe his hours of anguish and distress; and I had an opportunity of watching with intense anxiety, and great solicitude, the last moments of his life.

Mr. BURNET then submitted the following resolution; which was agreed to:

*Resolved, unanimously*, That a committee be appointed to take order for superintending the funeral of the Hon. JAMES NOBLE, deceased, which will take place at half past eleven o'clock this day, and that the Senate will attend the same; and that notice of this event be given to the House of Representatives.

The CHAIR stated that, under the circumstances of the case, upon being yesterday informed of the death of the late Senator from Indiana, he had appointed a Committee of Arrangement, and pall bearers; and hoped the course he had pursued would not be disapproved of.

Mr. BURNET then submitted the following resolutions; which were adopted:

*Resolved, unanimously*, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. JAMES NOBLE, deceased, their late associate, will go into mourning for him for one month, by the usual mode of wearing crape round the left arm.

*Resolved, unanimously*, That, as an additional mark of respect for the memory of the Hon. JAMES NOBLE, the Senate do now adjourn.

[The body of the deceased was then brought into the



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Duties on Iron.

[SENATE.]

chamber of the Senate, and placed in front of the Secretary's desk. Soon after which, the House of Representatives, preceded by their Speaker and Clerk, together with their Sergeant-at-Arms, entered the chamber, and were immediately followed by the President of the United States, the Heads of Departments, and the Judges of the Supreme Court, who respectively took the seats prepared for them. The Chaplain to the Senate (the Rev. Mr. Johns) then rose, and delivered an eloquent and very impressive address, which was followed by a fervent prayer by the Rev. Mr. Gurley, the Chaplain to the House. A procession was then formed, and proceeded to the Eastern Branch burial ground, where the remains of the deceased were solemnly interred.]

At half past one o'clock the Senate again assembled.

Mr. WEBSTER said, that, supposing the chairman of the Committee on Manufactures was prepared to make the counter report, (of which he had spoken on Saturday,) he would move to take up the report of the select committee on the subject of a reduction of the duties on iron, with a view to ordering it to be printed.

Mr. HAYNE withdrew the motion which was made by Mr. WEBSTER on Saturday, and accepted by him, for its reference to the Committee on Manufactures; and so the printing was ordered.

Mr. DICKERSON then presented a paper, which he stated to be the views of the minority of the select committee; but the CHAIR declared that it could not be received as such.

Mr. D. then presented it as an individual Senator.

Mr. HAYNE called for the reading of the paper.

Mr. GRUNDY moved to lay the whole subject on the table, with a view to give an opportunity to order the general appropriation bill, as amended, to a third reading.

On this motion the yeas and nays were ordered, and it was decided in the negative—15 to 20.

The question then being on receiving the paper, a short debate arose between Messrs. KING, DICKERSON, and HAYNE, which was arrested by a motion of Mr. FOOT to lay it on the table; which motion prevailed.

On motion of Mr. WEBSTER, it was ordered, that when the Senate take a recess to-day, it shall be till six o'clock P. M.

#### EVENING SESSION.

The Senate met again at six o'clock, and continued in session till eleven. A great number of bills was passed, but nothing of material importance was transacted.

TUESDAY, MARCH 1.

#### DUTIES ON IRON.

Mr. DICKERSON moved that the Senate now proceed to consider the paper yesterday submitted by him as the views of the minority of the select committee on the subject of reducing the duties on iron.

Mr. HAYNE said he would be glad to know what course should be adopted respecting it when taken up—if it were intended to have it printed as an argument against the report of the select committee which he had presented, he wished to know if the gentleman would have any objection to his having an answer to that argument in like manner printed. The report of the committee—of the majority of that committee, had already been ordered to be printed, and the document of the gentleman from New Jersey, [Mr. DICKERSON,] which exhibited the views of the minority of that committee, could not now go with it unless an extra number of copies of the original report were ordered to be printed. To this he would have no objection, provided his answer or rejoinder to that argument went along with it. If the printing of the original report for the use of the Senate had not in the first place been refused—a course which had been well said by the Senator from Alabama [Mr. KING] was alto-

gether unprecedented, and out of the regular mode adopted with every report of a committee, he [Mr. HAYNE] might not have thought of standing on his right. As it was, he conceived he had an equal right, if this practice of allowing individual members of a committee to print their arguments against a report were tolerated, to expect his rejoinder to that argument to be printed—and if the gentleman chose to reply to that, he [Mr. H.] would be prepared with a replication to that argument, and thus go on and ask for all to be printed for the use of the Senate.

Mr. DICKERSON replied that his sole object was to present the views of the minority of the committee on the subject. But he only presented it as the views of himself and another in their individual capacity, and as individuals they had a right to ask for those views to be printed. It was a right which they in common with others possessed; and was it not the case that the views of individuals respecting the subjects of memorials even were frequently printed? He would have no objection to the gentleman's rejoinder being printed, provided he was informed what it would be; but, before deciding, it would be but proper to know something respecting it.

Mr. SMITH, of Maryland, said, if this practice were sanctioned, it would put an end to all their former rules of proceeding; it was unparliamentary and quite unprecedented. It would now appear that we were to have a counter report—an answer to that, and thus he did not know where it was to have an end. The subject appeared to lead to debate; there were many bills from the other House which it was necessary to take up without loss of time, and he would therefore move that the paper be laid on the table.

Mr. HOLMES said, for his part he would have no objection to the plan which the gentleman from South Carolina [Mr. HAYNE] had laid out for himself to pursue, if he [Mr. H.] were allowed also to adopt it, and to write during the recess, while time might hang heavy on his hands, a further replication to the gentleman's replication, and this too to be printed at the public expense. He had also, he confessed, like the honorable Senator, a penchant for making an occasional speech, and for seeing himself in print now and again; and he hoped, if this new system were to be adopted, that the privilege which he laid claim to, would also be extended to him.

Mr. CLAYTON suggested that the Senator from New Jersey [Mr. DICKERSON] might better accomplish his purpose, if the Committee on Manufactures, of which he was chairman, were to report on the same subject.

Mr. DICKERSON explained, and insisted on his right, from former precedents, that his paper, which exhibited a view of two individuals who had formed a minority of the committee, should be received; and said, if it were not intended to carry the matter *ad infinitum*, the Senate could say where it was to stop.

After some further remarks from Mr. HAYNE and Mr. KING, the question was taken on Mr. SMITH's motion to lay on the table, when it was negatived by a vote of 19 to 12.

Mr. HAYNE then moved, as an amendment to the original motion for the receiving of Mr. DICKERSON's report, which was still pending, that the views of the majority of the committee in replication to that paper be also printed.

The question on this last amendment being first taken, it was agreed to, and Mr. HAYNE handed in the replication accordingly.

Mr. WEBSTER said, that, in regard to a report from a minority of a committee, although, strictly speaking, there could be no such thing, as a committee was a regular appointed body and constituted a whole, still, although it might be irregular for the minority to report as such, in a case like the present, he thought they were entitled to

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*Insolvent Debtors of the United States.*

[MARCH 1, 1831.]

give their views as individuals on the policy of a measure to which they had always been opposed, and which went to recommend a system to the country which was altogether new. He would therefore vote in favor of the document being received.

Mr. GRUNDY said he would vote against it, because he thought any other individual in the Senate had an equal right to offer his views on the subject, and have them printed.

The question was then taken on receiving the paper presented by Mr. DICKERSON, when the motion was carried by a vote of 19 to 18.

Mr. SMITH, of Maryland, moved that when the Senate adjourn to-day, it shall adjourn to meet to-morrow at ten o'clock. The motion was agreed to.

#### INSOLVENT DEBTORS OF THE UNITED STATES.

The bill for the relief of certain insolvent debtors of the United States was then taken up, on motion of Mr. WEBSTER.

Mr. WEBSTER then said, the object of this important and long desired measure was to enable the Government, in proper cases, and by a just and safe proceeding, to compromise with certain of its insolvent debtors. He looked on this object as equally politic and humane. The relation of debtor and creditor was a delicate one; many practical consequences ordinarily sprang from it; and it was not expedient that large numbers of persons should bear this relation to the Government, without the hope of ever changing it. It naturally cherished feelings not the most friendly, to the discharge of social and political duties. Hopeless debt, too, terminates the active agency and effective efforts of most of those who have become subject to it. Their exertions, their enterprise, their usefulness, are in a great measure lost to society. Few will struggle under a weight which they know, struggle as they may, can never be moved. Few will exert themselves, under the consciousness that the utmost exertion will never enable them to throw off or to break the chain which binds them, and to place themselves again in a condition to enter the employments, the business, and the engagements of society. It was wise, therefore, in his opinion, that every hopeless insolvent debtor to Government, should be able to ask inquiry into his case, and the causes of his inability, and to show his honesty and his misfortune, and then have the power of making his peace with his creditor; to have his *quietus*, in the language of the old law, and be encouraged, once more, to such efforts, and such services, as his social and domestic duties may require of him.

This being the general object of the bill, said Mr. W., it proceeds, in the first place, to distinguish clearly and broadly between mere debt and official delinquency. This distinction is founded, not only in true policy, but in correct morals also. Unpaid debt is one thing; violated trust very much another thing. Delinquency, or failure in the discharge of official duty, finds neither favor nor indulgence in any of the provisions of this bill. Principals in official bonds, and all persons who have received money to be paid into the treasury, or who have received it from the treasury, for public disbursement, are cut off from all its benefits. This is just. It is not unworthy of remark, however, that, in the history of our Government, the public has lost infinitely less by public debtors, than by public officers and servants. Six or seven hundred millions of dollars have been received into the treasury, almost all by being first secured by bond, with only a loss of the half of one per cent. This fact speaks much, not only to the credit of the system, but also for the integrity and punctuality of the American mercantile character. No Government in the world, I believe, collects its revenues with more certainty, or more economy, than ours. But it must be confessed, that when we proceed to the next

stage, and look into the disbursements made out of the treasury for the objects of Government, and to the degree of fidelity and correctness which has there prevailed, our experience has been far less gratifying. The selected servants of the Government have lost us thousands, where those whom the laws and the course of business have compelled to become our debtors at the custom-house, have hardly lost us a dollar. The mercantile character has richly earned this distinction. In all times it has shown itself worthy to be relied on; in all times, in prosperity and adversity, in peace and in war, amidst all the events that usually affect national income, or shock systems of finance, the Government has always felt that what was due to it from the commercial community was to be counted on as so much already in its coffers. Debtors of this class, becoming insolvent without imputation of fraud or dishonesty, have fair claims to a discharge. On the other hand, let the severity of the law continue towards public delinquency. Let those who solicit public trusts understand, once for all, that a rigorous rule will be applied; that a perfect accounting will be exacted; and that debts, created by disregarded duty, and a violated trust, is a fetter never to be broken.

The bill, sir, proposes a public and open proceeding, to ascertain the facts in each particular case. The insolvent debtor is to apply by petition, setting forth the facts of his case. The petition is to be referred to commissioners, who are to inquire into it, with power to examine the petitioner, and any other persons, on oath, respecting the whole matter before them; and they are to be attended by an agent on the part of the Government, to interpose objections, and demand explanations of whatever may appear to require explanation. The facts thus ascertained are to be referred to the Secretary of the Treasury; and thereupon he is authorized to compound and compromise the debt, according to the circumstances, and discharge the debtor.

It might be expected, perhaps, that the bill would have provided that, in every case, if no fraud or unfairness appeared, and clear insolvency and inability to pay were made manifest, a discharge should be granted of course. But, from what was known in regard to some existing cases, it was thought better still to leave the Secretary some discretion. It is known that there are cases in which, by the contributions of friends and connexions, or other means, considerable sums would have been paid if discharges could have been obtained; which cases, without such prospect of discharge, would be cases of great and total loss. So that one effect of this very measure will doubtless be, to cause receipts into the treasury of considerable sums, on account of debts, no part of which, without it, would ever have been collected.

The next important characteristic of the bill is, that in its operation it is altogether retrospective. It is not a standing provision. It applies only to past cases. Its object is to settle up and close cases of insolvency, long since happening, and still existing; to make a sort of half century jubilee, and set all the honest and unfortunate once more free from the demands of Government debts.

We see that, in the individual concerns of commercial men, it is found indispensable that some system, having the actual effect of a system of bankruptcy, should be adopted. Congress does not seem disposed to exercise its undisputed power of establishing such a system for the whole country, by law; no State can establish such a system, except to a partial extent; and most of the States have not attempted to provide any at all. But voluntary assignments, and voluntary discharges, have come into very general use, from the absolute necessity of the case. Individuals thus establish rules of distribution of effects, and for the discharge from debts, for themselves. But Government has not the power which belongs thus to a private creditor. The treasury cannot compromise or

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discharge the debt, in any case, without full payment. Under this act, as to past obligations, it will possess that power; and when its operation shall have been seen and tried by experience, it will be competent to Congress to repeat the provision, at a proper time hereafter, or not to repeat it, as its wisdom shall see fit.

As I do not anticipate any objection to the principle of the bill, I shall no longer press a claim on that time and that attention of the Senate, which are demanded by so many other urgent subjects. I wish, however, not to resume my seat before I express my sense of the obligation which the public is under to the distinguished gentleman in the other House, on whom it devolved, in the discharge of his duties there, to take the lead in this measure. I feel that he has rendered a substantial service to the country; that the bill which he has matured and supported through the House to which he belongs, will be a joyous relief, and a great blessing, to many honest and valuable citizens; and both useful and safe to the Government. I am happy in seconding here that which he has so well sustained elsewhere; and am desirous, for one, of expressing my thanks for his zealous devotion to this object, and his successful lead in its accomplishment.

The bill was then ordered to be read a third time.

#### MILITARY APPROPRIATIONS.

The Senate then, as in Committee of the Whole, proceeded to the consideration of the bill making appropriations for the military service of the United States for the year 1831. The several amendments reported by the Committee of Finance were agreed to, the most important of which was to strike out 100,000 dollars, and insert 200,000, as the sum to be appropriated for the present year for arming the new fortifications.

Mr. CLAYTON submitted a further amendment, appropriating \$30,000 for the purchase of small arms for the militia, that amount having been withdrawn from the fund for arming the militia, for the purchase of artillery.

Mr. KING opposed the motion, and Mr. CLAYTON supported it.

After a few words from Mr. SMITH, of Maryland, the amendment was rejected.

The amendments were then reported to the Senate, and severally concurred in.

Mr. CLAYTON renewed his motion to amend, and called for the yeas and nays on its adoption; which were ordered.

Messrs. SMITH, of Md., KING, and HAYNE opposed the amendment, and Messrs. CHAMBERS and CLAYTON supported it.

The question being finally put on the amendment, it was negatived, as follows:

YEAS.—Messrs. Barton, Bell, Chambers, Chase, Clayton, Dickerson, Frelinghuysen, Hendricks, Marks, Naudain, Robbins, Ruggles, Sanford, Silsbee, Sprague, Webster, Willey.—17.

NAYS.—Messrs. Benton, Bibb, Brown, Burnet, Ellis, Foot, Forsyth, Grundy, Hayne, Iredell, Johnston, Kane, King, Knight, Livingston, McKinley, Poindexter, Robinson, Seymour, Smith, of Md., Smith, of S. C., Tazewell, Troup, Tyler, Woodbury.—25.

#### CONGRESSIONAL DOCUMENTS.

The bill from the House, making provision for a subscription to a compilation of Congressional Documents, was read the second time, and considered as in Committee of the Whole.

Mr. POINDEXTER moved its reference to the Committee on the Library.

Mr. LIVINGSTON hoped it would not be referred; if it was, it would have the effect to destroy the bill. The subject had been before so fully discussed in the Senate, that it was wholly unnecessary a reference should take place, &c.

Mr. WEBSTER said, the proposed reference was unnecessary, as the subject had already been before the joint Library Committee.

Mr. POINDEXTER then withdrew his motion for recommitment, and submitted an amendment which should confine the selection to documents which had already been printed.

Mr. CHAMBERS thought an amendment of this kind would tend to enlarge the number of volumes to be printed.

Mr. HAYNE thought the bill should be referred.

After some remarks between Messrs. CHAMBERS, WOODBURY, HAYNE, ROBBINS, and DICKERSON, Mr. SMITH, of Maryland, moved to lay the bill on the table; which motion was decided as follows:

YEAS.—Messrs. Benton, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, McKinley, Poindexter, Robinson, Sanford, Smith, of Md., Tazewell, Troup, Tyler, Woodbury.—20.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Livingston, Marks, Naudain, Robbins, Ruggles, Seymour, Silsbee, Smith, of S. C., Sprague, Webster, Willey.—23.

A motion was then made to refer the bill to the Committee on the Judiciary, and decided as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Ellis, Grundy, Hayne, Iredell, King, Poindexter, Robinson, Sanford, Smith, of Maryland, Tazewell, Troup, Tyler, Woodbury.—16.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Dickerson, Dudley, Foot, Forsyth, Frelinghuysen, Hendricks, Holmes, Johnston, Kane, Knight, Livingston, Marks, Naudain, Robbins, Ruggles, Seymour, Silsbee, Smith, of S. C., Sprague, Webster, Willey.—17.

Mr. POINDEXTER then spoke in favor of his amendment, and Mr. LIVINGSTON against it; when

Mr. WOODBURY moved to lay the bill on the table; which was negatived, as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, McKinley, Poindexter, Robinson, Sanford, Smith, of Maryland, Tazewell, Troup, Tyler, Woodbury.—21.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Livingston, Marks, Naudain, Robbins, Ruggles, Seymour, Silsbee, Smith, of South Carolina, Sprague, Webster, Willey.—23.

After a question from Mr. WEBSTER, and a few observations by Messrs. HAYNE and KING, the latter moved to refer the bill to the Committee on the Contingent Fund of the Senate. This motion was negatived, as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Ellis, Grundy, Hayne, Iredell, King, McKinley, Poindexter, Robinson, Sanford, Smith, of Maryland, Tazewell, Troup, Tyler, Woodbury.—17.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Dickerson, Dudley, Foot, Forsyth, Frelinghuysen, Hendricks, Holmes, Johnston, Kane, Knight, Livingston, Marks, Naudain, Robbins, Ruggles, Seymour, Silsbee, Smith, of South Carolina, Sprague, Webster, Willey.—27.

The question was then put on Mr. POINDEXTER's amendment, and decided in the negative, as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, McKinley, Poindexter, Robinson, Sanford, Smith, of Maryland, Tazewell, Troup, Tyler, Woodbury.—20.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Livingston, Marks, Naudain, Robbins, Ruggles, Seymour, Silsbee, Smith, of South Carolina, Sprague, Webster, Willey.—23.

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After a few remarks from Mr. HAYNE, he moved to strike out 750, as the number of copies to be printed, which was also negatived, thus:

YEAS.—Messrs. Benton, Bibb, Brown, Dickerson, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, McKinley, Poindexter, Robinson, Sanford, Smith, of Maryland, Tazewell, Tyler, Woodbury.—19.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Dudley, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Livingston, Marks, Naudain, Robbins, Ruggles, Seymour, Silsbee, Smith, of South Carolina, Sprague, Webster, Willey.—24.

Mr. WOODBURY then submitted an amendment, to reduce the price of the proposed printing twenty per cent. below that paid to the Congress printer; which motion was negatived—18 to 23.

Mr. HAYNE then submitted an amendment, limiting the number of volumes to be printed to fifteen.

This amendment was opposed by Mr. HENDRICKS, who stated his reasons for the vote he should give; and the amendment was negatived, as follows:

YEAS.—Messrs. Benton, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, McKinley, Poindexter, Robinson, Sanford, Smith, of Maryland, Tazewell, Tyler, Woodbury.—20.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Livingston, Marks, Naudain, Robbins, Ruggles, Seymour, Silsbee, Smith, of South Carolina, Sprague, Willey, Webster.—23.

Mr. POINDEXTER then moved to amend the bill by adding a new section, providing for a subscription to a proposed publication of a stereotype edition of the laws, by Duff Green.

This motion, after some conversation between Mr. POINDEXTER and Mr. CLAYTON, and the reading of the report of the Library Committee on the subject, was rejected, as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Ellis, Grundy, Hayne, Iredell, Poindexter, Tyler.—9.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Dickerson, Dudley, Foot, Forsyth, Frelinghuysen, Hendricks, Holmes, Kane, King, Knight, Livingston, McKinley, Marks, Naudain, Robbins, Robinson, Ruggles, Sanford, Seymour, Silsbee, Smith, of South Carolina, Sprague, Tazewell, Webster, Willey.—31.

The bill was then reported to the Senate without amendment; and the question being put on ordering it to a third reading, it was determined in the affirmative, as follows:

YEAS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Livingston, Marks, Naudain, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, of South Carolina, Sprague, Webster, Willey.—24.

NAYS.—Messrs. Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, McKinley, Poindexter, Sanford, Smith, of Maryland, Tazewell, Tyler, Woodbury.—19.

On motion of Mr. WEBSTER, the Senate determined to take a recess from four to six o'clock P. M. this evening.

The CHAIR laid before the Senate a letter from the Postmaster General, in compliance with a resolution of the Senate of the 14th of May, 1830, transmitting a statement of the amount of postage received in that department from the 1st of April, 1829, to the 31st of August, 1830; which was referred.

The VICE PRESIDENT having stated that he should not again attend the meetings of the Senate at the present session, availed himself of this opportunity of wishing the Senators a very pleasant return to their homes.

The Senate then took a recess.

## EVENING SESSION.

The VICE PRESIDENT having retired from the Chair of presiding officer, the Senate proceeded to the election of a President pro tem.

The votes were, (first ballot:)

For Mr. Smith, of Maryland,	-	-	-	17
Mr. Bell, of New Hampshire,	-	-	-	12
Mr. Tazewell, of Virginia,	-	-	-	3
Scattering,	-	-	-	4

On a second balloting, there were

For Mr. Smith, of Maryland,	-	-	-	18
Mr. Tazewell,	-	-	-	9
Mr. Bell,	-	-	-	8
Scattering,	-	-	-	2

On a third balloting, there were

For Mr. Smith, of Maryland,	-	-	-	15
Mr. Tazewell,	-	-	-	21
Scattering,	-	-	-	3

So Mr. TAZEWELL was elected President pro tempore of the Senate.

Whereupon, Mr. TAZEWELL rose, and with a profession of his sincere distrust of his ability to discharge the duties of the Chair with satisfaction to himself or to the Senate, begged to be excused from accepting the honorable station which the Senate had assigned to him.

Mr. WEBSTER expressed his hope that the honorable Senator from Virginia would reconsider his determination, and would not be excused from the duty to which the vote of the Senate had called him.

Mr. TYLER, expressing his high respect for his colleague, and declaring that he himself, with all the sincere respect which he had for his colleague, not expecting such a course, had voted for the venerable Senator from Maryland, and, desirous to pay due regard to the wishes of his colleague, moved that his colleague be excused from serving as President pro tempore.

The Secretary of the Senate having put the question on this motion, it was decided in the affirmative, by 20 votes to 14.

The Senate then proceeded to another balloting for President of this body; and it resulted as follows:

For Mr. Smith, of Maryland,	-	-	-	20
Mr. Bell, of New Hampshire,	-	-	-	11
Mr. Ruggles, of Ohio,	-	-	-	4
Mr. King, of Alabama,	-	-	-	4

So Mr. SMITH, of Maryland, was elected President pro tempore of the Senate; and, being conducted to the chair, made his acknowledgments for the honor which he said he was satisfied was paid rather to his age than to his ability, and said that the only return he could make, would be to devote his best ability to the proper despatch of the business before the Senate.

The Senate then proceeded to the despatch of a variety of business, of which the following was the most prominent:

The bill to carry into effect certain Indian treaties was read the second time, and, on motion of Mr. GRUNDY, it was amended by striking out the clause which provides for taking the sum appropriated for carrying into effect the Choctaw treaty, from the fund of \$500,000 last year appropriated for the removal of the Southern Indians, and the expense of carrying into effect that treaty was ordered to be paid out of any money in the treasury not otherwise appropriated. Thus amended, it was ordered to a third reading.

The amendments of the House to the amendments of the Senate to the general appropriation bill were all agreed to, with the exception of that which goes to strike out the clause inserted on the motions of Mr. KANE and Mr. TYLER, and inserting \$15,000 for the services of the commissioners employed to conclude the treaty with the Sublime Porte.

A variety of motions were made on this subject, several

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points of order were discussed, and then some remarks were made on the constitutionality of the appointment of the commissioners. The effect that the amendment of the House would have, as preventing the Senate from expressing their disapprobation of the course of the Executive, was also spoken of, when, finally, the Senate refused to agree to the amendment, and appointed a committee of conference on its part, consisting of Messrs. TAZEWELL, WEBSTER, and KING, to meet conferees to be appointed by the House of Representatives.

The Senate then adjourned.

WEDNESDAY, MARCH 2.

#### CLAIM OF JAMES MONROE.

Mr. HAYNE said he was about to make a motion—such a one as he seldom made, and to which he was in general opposed—a motion which would have been unnecessary, if the bill had been suffered to come up in its order, but which had been prevented by the many motions made by gentlemen to take up bills out of their order—and that was, to take up the bill for the relief of James Monroe.

The motion prevailed—yeas 25.

The motion to amend, heretofore submitted, to strike from the bill the words “for public services, losses, and sacrifices,” was, on motion of Mr. HAYNE, disagreed to, to save time.

After a remark or two from Mr. FORSYTH and Mr. BELL,

Mr. LIVINGSTON said he would premise what he had to say on this subject by a declaration that he intended to vote for the bill. I am obliged, said he, in this case, as all of us must, for the most part, in cases of claims for services, or the settlement of accounts, to trust very much to the investigation made by our committees, and to the correctness of their reports. Were each member to investigate the details of the numerous cases that come before us, we should spend all our time in this examination, and then do the business imperfectly, leaving no time for attention to the great interests of the nation. In this case, a committee of the other House, that House itself, and our own committee, have informed us that Mr. Monroe has an equitable claim on the nation: and they propose that the amount of this claim shall be settled by our accounting officers on equitable principles. I must believe, therefore, that something is due, and therefore will vote for the bill. But, sir, a private duty which I owe to the memory of a very near and very dear relative, a public duty to a statesman who had no inconsiderable share in the establishment of our independence, who was one of the committee which sanctioned the declaration that proclaimed it to the world, and whose subsequent life was a series of important services to his country: these duties oblige me to notice an attempt to deprive him of the credit of one of the most important of those services. Among the claims which Mr. Monroe urges to the gratitude of the country, is the acquisition of Louisiana to the Union. Forgetting the agency of his colleague, scarcely mentioning him, except only to say that he had the merit of agreeing with him, (Mr. M.) he directly assumes the whole credit of the negotiation, by saying that nothing was done, or could be done, until his arrival; intimating clearly that it was his agency alone which produced the important result. I beg leave, sir, in order to test the justice of this pretension, to advert to the history of this transaction.

In the year 1801, Robert R. Livingston was sent by Mr. Jefferson as plenipotentiary to France. Important claims, the payment of which had been promised by the treaty of the preceding year, were yet unsatisfied; and the deranged finances of the republic rendered it very difficult for them to procure the means of discharging them. The first part of the year 1802 was spent by our minister in

unceasing but fruitless attempts to procure the justice due to our citizens. Other causes soon combined to give a more important turn to the negotiation. The suspension of the right of deposit at New Orleans excited a just and violent sensation in the Western country. Its citizens could scarcely be restrained from marching down, and securing by force of arms the free navigation of the Mississippi, so essential to their commerce. About the same time, Mr. Ross, a Senator from Pennsylvania, made a formal proposal to authorize the President to take possession of New Orleans: a measure which it was thought more urgent, because, about this time, May, 1802, it was known in the United States that Spain had, in the preceding year, ceded Louisiana to France. And it was feared that if a war broke out again (which was apprehended, and shortly after happened) between that Power and England, that this last Power would make a conquest of it, and thus enclose us on our whole frontier. Instructions were therefore sent to Mr. Livingston, to endeavor to purchase New Orleans and the Floridas for a price, of which the payment of the debt due to our citizens was to form a part. In obedience to these instructions, Mr. Livingston turned his whole attention to the accomplishment of this great object. While urging on the one hand the payment of the debt, on the other he was endeavoring to demonstrate the policy of making the cession to the United States, not only as the means of discharging the claims of our citizens, but as the only mode of preventing Great Britain from acquiring that valuable colony. In a memoir which he published in December, he not only insisted on these topics, but showed the advantage to France of encouraging the commerce and naval power of the United States, by the same act which would prevent the rapid accession to those of the rival of France.

In February, of the year 1803, finding that he could get no explicit answer from the ministry of France, he took a step dictated by a close study of the character of the extraordinary man who as First Consul then directed the affairs of France. Quitting the established form of communication, he addressed a letter directly to the First Consul himself, appealing to his honor as a soldier, and personal sense of justice, for the performance of a treaty he himself had made. This bold proceeding had its effect. An answer was given, positively promising a prompt liquidation and payment of the claims. To give greater effect to this promise, and increase the obligation of performing it, the contents of the answer were immediately communicated to the agents of the claimants at Paris; they were advised not to dispose of their claims, and told that they might rely on the word of the First Consul. This was done, with a knowledge that no other means could be found by France for discharging the debt, but the cession of New Orleans. In the mean time, Mr. Monroe had been appointed on a special mission to effect the same object. His arrival was expected about the beginning of April, and, so far from expediting, would, by waiting for his arrival, have delayed the termination of our difficulties, but for the concurrence of events which brought the matter to a conclusion in the mind of the First Consul before Mr. Monroe had set his foot in Paris. A history lately published by M. de Marbois, one of the confidential ministers of Napoleon, has raised the curtain, and exhibited to us what passed in his cabinet on this subject. On the 16th April, two days before Mr. Monroe's arrival in Paris, this important council was held. Louisiana, although ceded, had not yet been delivered to France. The stipulations of the peace of Amiens had not been performed; a renewal of hostilities was daily apprehended, and one of the first acts of those hostilities was expected to be the seizure of Louisiana by the British. France, too, wanted money for carrying on the war; and the First Consul was pressed for the performance of his promise to pay the American debt. Under these



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circumstances, he submitted to the two counsellors, on the day I have named, the question, whether it would be most expedient to transfer Louisiana to the United States, or to send on the expedition which had been prepared to take possession, and to risk the subsequent conquest of it by England. His two counsellors took different sides of this question; their arguments are given in detail by the historian, who was himself one of them, and who advocated the cession. The deliberations, he tells us, continued till late in the night. At daybreak on the morning of the 11th, he summoned M. Marbois to hear and execute his decision; he gave it in these words: "Irresolution and deliberation are no longer in season. I renounce Louisiana. It is not only New Orleans that I will cede; it is the whole colony, without any reservation. I know the price of what I abandon. I renounce it with the greatest regret: to attempt obstinately to retain it, would be folly. I direct you to negotiate this affair with the envoys of the United States; do not even wait the arrival of Mr. Monroe; have an interview this very day with Mr. Livingston. But I require a great deal of money for this war, and I would not like to commence it with new contribution. I will be moderate, in consideration of the necessity in which I am of making the sale, but keep this to yourself; I want fifty millions of livres, and for less than that I will not treat." On that very day M. Marbois did make the overture to Mr. Livingston, the price was discussed, but, of course, Mr. Livingston, knowing that Mr. Monroe was joined with him in the mission, and that he had arrived at Havre, could not conclude any thing until his arrival; he had another conference on the 13th (before Mr. Monroe had been presented) with M. Marbois, with whom he had been on a footing of intimacy as old a date as the revolutionary war, when Mr. Livingston was Minister for Foreign Affairs, and M. Marbois held a diplomatic employment to the old Congress, which considerably facilitated their intercourse on the present occasion. Mr. Monroe arrived on the 12th, and soon after joined his colleague in the negotiation; and the treaty was signed on the 30th of April.

Two circumstances are remarkable in this transaction: first, that the arguments employed in the consultation of the First Consul's cabinet in favor of the cession are precisely those suggested by Mr. Livingston in his memoir of December, 1802, and expressed in nearly the same language; the other, that the arrival of Mr. Monroe, and the part he took in the negotiation, did not change an item in the propositions made by the First Consul.

Two things are adduced, however, as proofs that Mr. Livingston could effect nothing without the aid of Mr. Monroe, and, consequently, that all the merit of the cession is due to him. One is, a private letter written hastily to congratulate him on his arrival, in which he (Mr. L.) speaks doubtfully of final success, unless Mr. Monroe should bring the account of Mr. Ross's resolutions having passed, and says they would negotiate to much better effect with New Orleans in our possession; and most undoubtedly we should. The purchase would have been made for half the price. But it must be remarked that this letter was written on the morning of the 10th, before the resolution which was the result of the Consul's cabinet council was taken. But, in this very letter, Mr. Livingston tells his colleague he had paved the way for him. What did he mean by this, if he had lost all hope?

It is said, too, that this same language was repeated on the night of the 12th, and that it was recorded in Mr. Monroe's journal. There is something that always struck me singular in thus recording what was said in a friendly visit made at the moment of his arrival. Why was this treasured up, even if it was rightly apprehended? But, sir, there was evident misapprehension or inaccuracy; for Mr. Livingston could not, on the 12th, at night, have used this language, when he had the day before received the overtures from M. Marbois, and even discussed the

price. He very probably did repeat that they would have negotiated to greater advantage if New Orleans had been taken; and is it not probable, too, that he might not think it prudent to express what he really thought in the presence of a young gentleman he did not know, and of whose discretion he could not be assured, and that he reserved the communication of the overtures that had been made to him for a fitter occasion? It is said, indeed, that he did not believe the overtures to have been sincere; but whether he thought so or not, he would have been bound to communicate them to Mr. Monroe; and his not doing so on that occasion gives force to the conjecture that he was restrained by the presence of a third person, and used vague expressions, which were not accurately rendered in transferring them to the journal. But Marbois, it is said, also thought that Mr. Livingston was suspicious of the sincerity of the offers; but for this argument it unfortunately happens that M. Marbois takes his fact from Mr. Monroe, and quotes his memoir for his authority; so that, in relying on Marbois's authority, Mr. Monroe only quotes his own.

But whatever were Mr. Livingston's impressions, they could not alter the facts, that the decision to cede Louisiana was taken two days before Mr. Monroe arrived in Paris, and that decision made under the pressure of causes which Mr. Monroe had no share in producing, and of which he was totally ignorant—that the cession would have been made if he had never arrived—that the conditions even were not modified by his interference. The sale of the whole province being resolved on, instead of the part for which he came to treat, and the price fixed by the First Consul on the 11th, before his arrival, being that which was agreed upon afterwards, his merit consists in having agreed with his colleague in exceeding their instructions, and taking the whole instead of part. And yet he assumes to himself the whole credit of the treaty; makes no allowance to the memory of a man, to whose able and laborious negotiation, whatever there was of merit, in the preparatory steps taken to ensure the cession, was due. Near two years of unremitting exertion to bring about this end are considered as nothing! The dilemma to which the First Consul was reduced by his renewed promise to pay the debts—a promise procured by a bold and hazardous departure from the usual modes of negotiation—and the suggestion, urged with so much force in the memoir of the previous December, that they were used as arguments, and had their effect in bringing about the decision of the First Consul—all these are passed over in silence, and the arrival of Mr. Monroe, the bare weight of whose name before he had arrived, it is given to understand, had more weight than all these; and Mr. Livingston's name is only mentioned to give him the great merit of agreeing with his colleague.

Sir, I lament that Mr. Monroe should have thought it necessary to pursue this course. It is unworthy of him, and of the memory of a man with whom, to say the least, he would not have lessened himself by acknowledging as an equal. His course has obliged me to make these observations, which, I repeat, are not intended to injure his claim on the justice or gratitude of the country. My duty to a brother's memory has forced from me these explanations. I know the value he placed on the share he had in annexing the vast territory of Louisiana to our confederacy, and should be unworthy of the honor of my relation to him, unfaithful to his memory, and ungrateful for his fraternal affection, if I stood by and silently permitted any one to assume the sole credit of it.

What I have said is not intended to injure any claim Mr. Monroe may have on the justice of the country. I should be grieved if it had that effect; nor can I believe it possible that it should.

The question was then put on ordering the bill to a third reading, and was decided as follows:

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*Internal Improvement.*

[SENATE.]

YEAS.—Messrs. Benton, Bibb, Chambers, Chase, Clayton, Dudley, Frelinghuysen, Grundy, Hayne, Hendricks, Johnston, Livingston, Marks, Poindexter, Robinson, Seymour, Silsbee, Sprague, Tazewell, Tyler, Willey, Woodbury.—22.

NAYS.—Messrs. Barton, Bell, Brown, Burnet, Dickerson, Ellis, Foot, Forsyth, Fredell, Kane, McKinley, Robbins, Ruggles, Smith, of Maryland, Troup.—15.

The bill was then read the third time, and passed.

On motion of Mr. MCKINLEY, the Senate then proceeded to the consideration of executive business, and sat with closed doors till near four o'clock;

After agreeing to the amendments of the House to the bill relative to punishments for contempts of court, the Senate took a recess till seven o'clock.

## EVENING SESSION.

The CHAIR laid before the Senate a letter from the Secretary of the Treasury, assigning the reasons why the annual statements of the commerce and navigation of the United States cannot be laid before the Senate at the present session; which was ordered to be printed.

## INTERNAL IMPROVEMENT.

The Senate took up the bill for carrying on certain roads and works of internal improvement, and to provide for surveys, together with an amendment reported by the Committee on Internal Improvements, to strike certain words from the bill as it came from the House of Representatives, and to insert, instead thereof, the words \$150,000 for the improvement of the navigation of the Ohio and Mississippi rivers from Pittsburg to New Orleans, and for removing snags, &c. and requiring bonds of the superintendent of the work to the amount of \$300,000.

Mr. HENDRICKS submitted a further amendment, re-appropriating certain unexpended moneys for works of internal improvement, which have been carried to the surplus fund.

Mr. TAZEWELL said he should oppose this, and all other amendments that might be offered, unless satisfactory information was given of the necessity for each appropriation.

Mr. HENDRICKS said, the estimates for the amendment had been handed to him by the chairman of the Committee of Ways and Means of the other House; they had been received there too late to be inserted in the bill when it was before the House of Representatives, and, as it could not be acted on there, it had been brought here.

Mr. TAZEWELL said that it also came too late here.

The amendment was rejected.

Mr. HENDRICKS then moved a further amendment, appropriating \$15,000 towards making the road from Memphis to Little Rock, in the Territory of Arkansas. Mr. H. remarked that a bill providing for this road had been reported in the House, but not reached on the calendar—the only resource, therefore, which the Delegate from that Territory had, was to ask its insertion in the present bill. The Delegate had spoken to him on the subject, and he trusted it would be adopted.

Mr. GRUNDY said, that, from information he had received at home, he thought the appropriation should be made. As an individual he had no objection to it; but he would ask if the Senate was prepared to act on this appropriation, without the subject having been referred to a committee of this House, or without any information of the necessity for the appropriation from any of their committees.

Mr. HENDRICKS said a few words in favor of the amendment. It was no more than just, as the bill of the House on the subject had not been reached in that body, and as the Delegate from the Territory of Arkansas had no alternative but to bring it here, that the Senate should adopt the amendment.

The question being put on the amendment, it was rejected.

The amendment reported by the Committee on Roads and Canals, as before stated, was then considered.

Mr. DUDLEY remarked that he was a member of the committee which reported the amendment; but there was not sufficient evidence to convince him of its correctness. He demanded the yeas and nays on its adoption.

Mr. POINDEXTER explained the object of the amendment.

Mr. BENTON supported the amendment.

Mr. TAZEWELL called for a division of the question, so that it might be first taken on striking out.

Mr. JOHNSTON preferred the amendment to the bill as it came from the House.

MESSRS. JOHNSTON, DUDLEY, POINDEXTER, IREDELL, and WEBSTER severally addressed the Senate; when, the question being put on striking out the clause of the bill on the subject, as it came from the House, it was determined in the affirmative—yeas 36, nays 2.

Some conversation now took place as to the amount of security which should be required of the superintendent, when it was finally fixed at double the sum which might at any time be in his hands.

Mr. BENTON moved an amendment providing for an engineer to be associated with the superintendent in the execution of the work; which was agreed to.

The question being put on the amendment as amended, it was determined in the affirmative—yeas 29, nays 9.

Mr. KING moved to strike out \$25,000, the sum proposed for further surveys, and to insert \$5,000; which, after some conversation, was negatived—18 to 19.

Mr. HAYNE then, in a speech of some length, opposed the bill.

He was replied to by Mr. LIVINGSTON.

Mr. HAYNE rejoined, and Mr. LIVINGSTON again answered Mr. HAYNE.

After a few words from Mr. FOOT, and an explanation by Mr. LIVINGSTON,

The question was put on ordering the bill to a third reading, and decided in the affirmative. The bill, as amended, was subsequently read the third time, and passed, and the House concurred in the amendments.

The Senate concurred with the House in agreeing to the report of the managers appointed on the disagreeing votes of the two Houses to the amendments to the general appropriation bill.

The amendments of the Senate to the bill to regulate the foreign and coasting trade on the Northern and Northwestern frontiers, and for other purposes, were read and concurred in, and the bill read the third time, and passed. [The amendments were to insert "Northeastern," and "otherwise than by sea."]

The bill making additional appropriations for the improvement of certain harbors, and removing obstructions at the mouths of certain rivers, was read the third time, and passed; the question on ordering it to a third reading being decided by yeas and nays—28 to 6.

Mr. HENDRICKS moved to suspend so much of the seventeenth joint rule as respects bills which have this day passed both Houses, so as to permit them to be presented to the President on the last day of the session.

Mr. FOOT, being temporarily in the chair, decided that a motion to suspend a rule must lie one day, unless the Senate unanimously agree upon the suspension.

From this decision, Mr. WOODBURY appealed, and referred to a decision by Mr. Macon in a similar case, in the year 1826—which was directly the reverse.

The question being put, "Is the decision of the Chair correct?" It was decided in the negative—16 to 18.

After a few remarks as to a point of order, in which Messrs. KING, HOLMES, HAYNE, SPRAGUE, WOODBURY, BIBB, and FRELINGHUYSEN participated,

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Mr. KING moved to lay the motion for suspending the rule on the table; which was determined in the affirmative.

Mr. BENTON moved to go into the consideration of executive business; the motion was negatived—15 to 17.

A number of bills were successively taken up, and finally acted on.

Mr. BENTON, for the third time, moved to go into the consideration of executive business. The motion prevailed—yeas 19. It was now half past twelve o'clock.

The doors remained closed for about thirty minutes.

On motion, it was ordered that when the Senate adjourns, it will adjourn to "Thursday, the 3d of March, at eleven o'clock A. M."

Mr. CHAMBERS moved to take up the bill to alter the draw and bridge over the river Potomac.

Mr. FORSYTH opposed the motion, and moved to lay it on the table. No quorum voting.

Mr. FORSYTH moved an adjournment—negatived—yeas 10, nays 20.

The question was then again put on laying the motion on the table, but there was no quorum present: when

Mr. FORSYTH again moved an adjournment—yeas 5, nays 19—no quorum present.

Mr. CHAMBERS then submitted a motion that absent members be sent for.

Mr. HAYNE said, if the motion prevailed, he hoped it would be carried through. He understood the intention to be, that every member in the city should be sent for, and this would take till daylight.

Mr. CHAMBERS said he saw no other course to pursue; and if it took six hours to carry his motion into effect, he should nevertheless persevere.

A quorum being now present, Mr. CHAMBERS withdrew his motion; and

The question was then again put on the motion to lay on the table, and decided in the negative—yeas 6, nays 19.

The bill was then taken up, and Mr. CHAMBERS explained its objects, and spoke in its support.

Mr. KING moved that the Senate do now adjourn, and that "the hour of the night, five minutes of two o'clock, on the 3d of March, be entered on the journal."

The yeas and nays were taken on the motion to adjourn, and stood 7 to 21.

Mr. TYLER observed that the President of the United States had left the capitol, and as it was immaterial whether the bill passed to-night or after daylight, he saw no use in gentlemen exhausting themselves—he was of opinion they had better go home, and, therefore, moved an adjournment. Negatived—yeas 7, nays 18.

Several bills were now brought from the House for the signature of the President; after they were signed, at half past two o'clock, the Senate adjourned.

#### THURSDAY, MARCH 3.

On motion of Mr. CHAMBERS, the seventeenth joint rule was suspended for this day, so far as respects those bills which have passed both Houses, or require for their final passage an assent only to amendment.

#### POST OFFICE DEPARTMENT.

Mr. CLAYTON, from the select committee appointed on the 15th December last to inquire into the present state of the Post Office Department, made a report, enumerating certain papers communicated by the Postmaster General, which he was instructed by the committee to move to have printed. The printing was ordered.

Mr. CHAMBERS presented the following memorial from Abraham Bradley, late Assistant Postmaster General: *To the Honorable the Senate of the United States:*

The memorial of Abraham Bradley, late Assistant Postmaster General, most respectfully represents—

That, after his removal from office, he, as is well known

to the Senate, presented to the President of the United States a letter, in which, among other things, he stated that Mr. Barry, the present Postmaster General, had made an extra allowance to a Mr. Harrall, a mail contractor, and to others, as this memorialist conceived, without warrant of law.

A copy of this letter having been called for, was presented by this memorialist to the present select committee of the Senate on the Post Office Department.

During the last session of Congress, a call was made on that department, at the instance of one of the Senators from Ohio, for information relative to the extra allowances which had been made to mail contractors.

The response of the department to that call was submitted to the view of this memorialist as containing matters in which he was deeply concerned. Upon examining it to ascertain if his recollection of Harrall's case was correct, he was unmeasurably astonished to find that the extra allowance was there charged to have been made by him, acting as Postmaster General. It was evident that the documents had been originally different, that an erasure had been made, and the name of this memorialist inserted. Induced by this to examine further, he found that forty-nine cases of extra allowance were in that document charged to have been made by him. Thirty-six of these were similar to the case of Harrall; the original document had been mutilated, and the name of A. Bradley, Jr., acting as Postmaster General, carefully inserted.

This memorialist called the attention of the committee to these circumstances, as evidence of an attempt to impeach his testimony, and to load his official conduct with opprobrium, being public documentary proof from the books of the department, that he had squandered the public funds during the few days he had acted as Postmaster General, between the 10th of March, when Mr. McLean left the office, and the 5th of April, when Mr. Barry came into it, and that, in order to screen himself, he had charged these things upon the latter gentleman. The committee kindly authorized a sub-committee to accompany this memorialist to the department yesterday, the 28th instant, to ascertain whether his statements were correct. Your memorialist confidently appeals to those gentlemen, in support of the fact, that it satisfactorily appeared to them, that in this case of Harrall's, as well as in every other case but one in which an erasure had been made, Mr. Barry was originally and properly charged—and that it was there asserted that these erasures had been made by mistake, and his name inserted by mistake. The gentlemen had not time to pursue their inquiry, and no examination was made into those cases originally charged to your memorialist.

In whatever manner these mutilations of the original document may have occurred, and these false amendments to it made by mistake or not, the effect must be, if it goes to the world, to injure, if not to destroy, a reputation upon which your memorialist, after nearly forty years' public service, must mainly rely for support. The Senate has, as he has been informed, directed this report to be printed.

If this should be done, and it should, with all its falsehoods and injurious tendency, be spread before the people under the sanction of the Senate of the United States, your memorialist submits that great injustice must necessarily follow to him. He therefore prays that such order may be taken by the Senate, as will secure his right, and especially preserve the reputation which documents published by the authority of the Senate should always possess. And your memorialist, as in duty bound, &c.

March 1, 1831.

ABRAHAM BRADLEY.

Mr. CHAMBERS moved that the order for the printing of the report referred to be rescinded.

Mr. GRUNDY thought the better course would be—the

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right way to do justice—to print the report, and subjoin to it the memorial of Mr. Bradley, and the testimony of Messrs. Brown, Suter, *et al.*

Mr. CLAYTON, chairman of the select committee to whom those documents had been referred, rose, and observed that they were very voluminous, purporting to be answers to the resolution of the Senate of the 14th April last, which directed the Postmaster General to report "copies of all existing contracts made by him or his predecessor in office, on which allowances have been made for additional services; designating, in each case, how much and what additional service has been performed, and by whom it was required, and designating also what sum has been allowed in each case for such additional service, and by whom it was allowed." The answer to this call was kept back until about the 10th of last month. During the debate which occurred here on the resolution of the gentleman from Tennessee, among other things then said, I complained of this delay as an evidence of a design to baffle inquiry into the concerns of the department; and, after that, the report called for in April, 1830, came in. It was first referred to the standing committee on the Post Office, although I prayed for its reference to the select committee, to whom unquestionably, as we now see, it properly belonged. The standing committee, without examination, as we must suppose, recommended it to be printed, and the Senate ordered it to be printed. After this, and about a week since, it was referred to the select committee. They examined it, and have ascertained that in thirty-six cases of extra allowance to contractors scattered through these documents, embracing some of the grossest violations of the law in granting away the public money to mail contractors, the allowances have been falsely set down as having been made by Abraham Bradley, acting or assistant Postmaster General, when, in these very cases, the allowances were actually made by the present Postmaster General; and for the truth of this I refer to the deposition of Mr. Bradley, those of the clerks in the department, and the report itself of the Postmaster General in answer to the call, all now on the table before you, as well as to the statements of the Senators from Maine and Tennessee, [Messrs. HOLMES and GARDNER,] who went to the department as a sub-committee, by our direction, to ascertain the facts. These documents, in each of these cases, exhibit to your eye palpable erasures, where the name of "William T. Barry, Postmaster General," has been rubbed out, and that of "Abraham Bradley, acting Postmaster General," inserted. The result of the examination was, that Mr. Barry's name was originally written down on the documents as the person who made the allowances, according to the truth—that the name of Mr. Bradley was afterwards inserted, and now stands in each of these thirty-six cases, which, call them falsehoods, errors, or what you please, certainly misrepresent the fact. Then it is also necessary to state that the letter of Abraham Bradley to the President, which was read in the debate here on the resolution of the Senator from Tennessee, charging Mr. Barry with gross violation of the law in some of these cases, (particularly in the case of the South Carolina contract,) was written more than a year ago, and shortly after his removal from office; that this letter had been sworn to by Mr. Bradley in the committee; and that the tendency of this falsification of the documents, if undetected, was to convict Mr. Bradley of swearing falsely, who, in saying, on his oath, that the Postmaster General made the allowances, stated the exact truth. Sir, I have bestowed much attention on these papers, and I do not undertake to say that these are all the misrepresentations contained in them. They are enough, however, to induce the Senate, both in justice to its own character, and the reputation of an excellent citizen and an innocent man, to refuse to give any publicity to documents which all can see, and all now

admit to be spurious and mutilated. If they be printed, even with the evidence which proves them false, still injustice may possibly result from it; for it will appear to the world, that the Senate had some confidence in these papers; and it may happen that those who shall hereafter read the calumny will not, among such a mass of papers, also advert to the refutation of it. At the time these papers were sent in, Bradley was a witness against the department, and under examination before the committee. All here know what an effort was made in public discussion to impeach his veracity, and I trust all will now admit how entirely that effort failed. But I will not stop to inquire into the motives of those who directed those alterations to be made. With motives we have now nothing to do. But the fact is incontrovertible, that these documents are unworthy of credit. It is therefore unworthy of the Senate to publish them, and I hope the order for their publication, made in an unguarded moment, may be rescinded.

Mr. HOLMES said: Mr. President, having been selected by the committee as a sub-committee with the Senator from Tennessee, [Mr. GARDNER,] to go to the department, examine the books, and ascertain what was the truth, we took with us the witness under examination, and proceeded to the General Post Office. We took also the abstract of allowances, now before the Senate. This abstract was obtained by a call made on the 14th of April last, made by a Senator from Ohio, [Mr. BURNET,] requiring, among other things, information of extra allowances made to contractors, and for what additional services, that the Senate might compare the value of the service with the compensation. The answer to this call did not come to the Senate until the 10th of February of this session, near nine months. It was referred to the Committee on the Post Office, &c., and by them returned to the Senate on the 22d, and ordered to be printed; and was then referred to the committee of inquiry. It was voluminous, and exceedingly confused; but some members of the committee discovered at once that it must be erroneous, to say the least. The fact is, that Mr. McLean left the department about the 10th of March, 1829—that Mr. A. Bradley, the senior assistant, was then the acting Postmaster General, *as locum tenens*, from that time until the 7th of April, less than four weeks. Still, within that time, additional allowances appeared by this "abstract" to have been made, of about 42,000 dollars. Upon examining this "abstract," it appeared, moreover, that there had been thirty-six erasures, and A. Bradley's name inserted. The allowance to Harrall appeared the most extraordinary. This was a case of erasure. It seems that Bradley had, on the 17th of October, 1829, in a letter to the President, among other things, charged Mr. Barry with prodigality, and had instanced this allowance to Harrall. Harrall's contract was for carrying the mail from Georgetown to Charleston, South Carolina, for 6,000 dollars, and the extra allowance was 1,992 dollars, about thirty-three per cent.; and the cause alleged was two hours' expedition; the law allowing only a *pro rata* addition, which would have been about eight per cent. if the two hours' expedition had been required. But here was another error in the abstract, the expedition required being only one and a half hours.

This extravagance, which Bradley, in his letter to the President, had charged upon Barry, and had before the committee verified it by his oath, Barry had, in an official communication, charged back upon Bradley. The reputation of these two gentlemen seemed, therefore, to be so deeply involved, that it became the duty of the committee to ascertain how the fact was, and the sub-committee was accordingly appointed.

In pursuance of this appointment, we proceeded to the department; Mr. Barry was not there; we inquired of Mr. Gardner, the assistant, and others, for the persons who

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made out the "abstracts," and Mr. Taylor and Mr. Dundas were introduced, and, after a preliminary examination, were sworn and testified. We recurred to the erasures, and asked what was erased to make the blanks which were filled by Mr. Bradley's name? They answered, Mr. Barry's and Mr. McLean's, but chiefly Mr. Barry's. Why were Messrs. McLean and Barry's names first inserted? Because they supposed it was right; but Mr. Brown, by order of the Postmaster General, as he said, had determined otherwise, and directed this rule: to take the ledger, and look at the account of the contractor which was adjusted for each quarter, and, if the credit of the allowance at the end of the quarter is carried into Bradley's time, charge the allowance to him. It appeared that the account with Harrall was adjusted and balanced to the end of the quarter, to wit, the 1st of April; and, as Bradley was then acting Postmaster General, this allowance was consequently charged to him. I inquired if this quarter's account was adjusted and balanced at the time it bears date? The answer was, no; and not, probably, until June. Whether, if the allowance had been made between the 1st of April (the end of the quarter) and June, the time of actual adjustment, it would have been carried to Harrall's credit in that quarter? The answer was, that it would. Do not you, then, we asked, see the fallacy of your rule in proving who was the Postmaster General who made the allowance? Your quarter closed on the 1st of April, and Bradley's functions ceased on the 7th, and your adjustment of the quarter was made on the 1st of June. If this allowance had been made any time between the 7th of April and 1st of June, and you had carried it back to the 1st of April, do not you see that you fix on Bradley an allowance made by Barry? Bring your original entry, where, concerning this allowance, you first put pen to paper, no matter what is the name of the book or the document. They brought "the cash book;" there the allowance was stated, and the time for which it was made, but not when the decision was made. But I perceived, in a small note in red ink, "see letter of 13th April." I demanded the letter, and it was brought; and, behold, it was a letter of Phineas Bradley to Harrall, six days after Abraham's functions had ceased, stating that the Postmaster General (Barry) had examined his claim for extra compensation, and had directed him to pass the sum of \$1,992 50 per annum to his credit, as extra allowance. Here the thing was settled. The charge of Bradley to the President, of Barry's extra allowance, was true; the attempt in Barry's official report to shoulder it off on Bradley was entirely defeated. The Assistant Postmaster General, Gardner, and Chief Clerk, Brown, were forced to admit the error, and that the rule which had fixed about \$40,000 of allowances upon Bradley, took these allowances from McLean, but chiefly from Barry, where they in fact belonged, and charged them upon Bradley, where they did not belong. It was strange, indeed, that this abstract should have been, at first, made out correctly, and that McLean and Barry's names should have been improperly erased and Bradley's improperly inserted. Now, it is not to be presumed that charges so grave as those presented by Bradley to the President of the United States, in his letter of the 17th of October, were never communicated to the Postmaster General. Mr. Bradley had been an Assistant Postmaster General full thirty years, and, in all that time, had maintained an irreproachable character. He had been removed without being permitted to know the cause. One of the charges (to wit, prodigality) which he prefers against the Postmaster General, (Barry), is attempted to be shouldered off on him. This the witness declares on oath was the act of Barry himself, and proves it in the way I have stated.

The depositions of Brown, Dundas, Taylor, Suter, and Gardner, admit the misrepresentation in this "abstract;" but "it is an innocent mistake." It may be so, and we

wish, in all charity, that we had better grounds to presume it. This "abstract" is neither an original record, nor a copy from any record. It states briefly in each case the amount of the contract, the name of the contractor, the amount of the extra allowance, and for what time. It is neither an extract nor abstract from any record or document. It is rather a compilation of these facts from the letters, the cash book, and the ledger. It seems singular that there is no direct record of the time when these allowances were granted. But, nevertheless, it happened in this case that the subordinate officers found no difficulty in ascertaining which Postmaster General did make the allowances; and nothing but the rule promulgated by Mr. O. B. Brown changed the right into a wrong. Now, it would seem that a rule so utterly fallacious as this, would operate sometimes for, and sometimes against, Mr. Bradley; but this (strange to tell) operated in every case against him, and fixed upon him the most numerous and extravagant extra allowances that were ever made in twice that distance of time. Considering, therefore, that Mr. Barry had been, long before this, presented to the President for extravagance in these allowances; that his answer to a call from the Senate had been altered, by erasures, so as to remove this charge from him, and fix it on Bradley; that the falsity of the official document had been detected, and acknowledged by the officers who have the chief management of the department; it is for the public to decide whether such errors in such a department, which combine to destroy the fair fame of a worthy and highly distinguished citizen, are to be ascribed to gross ignorance or base design.

From all the evidence which we obtained from the department, it would seem that, in less than four weeks, Mr. Bradley is made to have given extra allowances in forty-seven cases; in thirty-six of which Mr. McLean and Barry were rightly charged, but their names were erased, and Bradley's wrongfully inserted. It appears further, that though the call as to these extra allowances, which was made nine months before it was answered, extended also to the reasons or consideration for them, yet in very few instances has the reason or consideration been given; and in some it is found that it has been erroneously given. In this very case of Harrall, all that is pretended to have been gained for this \$1,992 per annum, is expediting two hours in twenty-four, which, upon inquiry, turns out to be but an hour and a half. In the short time that this mass of matter has been before us, we have discovered enough to convince me that this mutilated, mangled, perverted document never ought to go to the public with the sanction of the Senate. The Senator from Tennessee suggests that the petition and this document may both be published. But the committee know that the petition is true, and the document is not. Shall we, then, give currency to official slander against a citizen who has served you near forty years with distinguished ability and stern integrity? If his faithful services could not save him from a relentless proscription, but he must be cast upon the world in the evening of his days, pennyless, and without employ, surely we will not give currency to that which, if true, would consign him to infamy, but which we know is a gross fabrication. If you will consent to adopt a resolution, directing the printer to enclose the erasures in brackets, and insert this resolution in a note at the bottom of each page which shall contain an erasure, the antidote would then go with the poison, and no harm would be done. But, as it is, I protest against such injustice.

Mr. GRUNDY remarked, that he should not oppose the adoption of the resolution. He never could see any public utility in either obtaining or printing the abstracts; and if any member supposed that injustice would be inflicted on any one, he should be still less inclined to have them printed. He was one of the members of the committee who examined this subject at the General Post



MARCH 3, 1831.]

Post Office Department.

[SENATE.]

Office, and believed no improper conclusion could be drawn. If the abstracts, the memorial of Mr. Bradley, and the depositions of Mr. Brown, Mr. Suter, Mr. Taylor, and Mr. Dundas, were printed together, the whole truth of the case would then be presented, and no imputation would be thrown on any one. Mr. Bradley alleged that certain extra allowances purported by the abstracts to have been made by him, which were not made by him; but it should be noticed, that there was no evidence that these allowances were not properly made. It was only material to investigate the matter, because Mr. Bradley had stated in his letter to the President that Major Barry had made one or more of them. It was a matter touching Mr. Bradley's veracity, which it was deemed proper should be put upon the true ground. Mr. G. was desirous that full justice should be done to Mr. Bradley, but protested against the effort which seemed to have for its object the inculpation of the Post Office Department in the transaction alluded to; and a reference to the depositions of the witnesses before named would entirely free the department from all censure.

It was required by the resolution that the department should state not only all extra allowances made, but the officers by whom made. The clerks, Mr. Taylor and Mr. Dundas, were directed by Mr. Brown, the Chief Clerk, to proceed with the work. Mr. Brown was detained from the office by sickness. In the execution of the business, it was discovered that the books of the office, from its commencement, contained nothing showing by whom extra allowances had been made, but the dates of the entries; and Mr. Dundas had gone on to state the extra allowances as made by Mr. McLean up to the day of his resignation, and from that period as made wholly by Major Barry. After he had proceeded in this way for some time, a question arose as to its correctness, and it was agreed by Mr. Taylor and Mr. Dundas to take the opinion of Mr. Brown upon the subject, on which they differed in opinion. They stated to him the principle of difference, without reference to any particular case, (as sworn to by Mr. Taylor.) Mr. Brown was of opinion that the criterion would be, to take from the books the dates of the first entries for the payments of extra allowances, and charge the making of these to the Postmaster General then in office; and to state all allowances as made by Postmaster General McLean up to the day of his resignation, and all allowances as made by Mr. Bradley, who was by law acting Postmaster General, up to the day Mr. Barry was sworn into office; and to Mr. Barry all allowances made from that day subsequently. This was the rule adopted; and, in conformity with it, the name of Mr. Barry was erased in several instances, and Mr. Bradley's inserted, before the report was completed. This was the whole of the matter; the original books and documents all stand fair and unaltered, and he could see no ground of imputation against any one. That some of these alterations in the abstract which those clerks were making were erroneously made, no one doubted. Mr. Brown stated it in his deposition, and, taking all the depositions mentioned, it is explained in the most satisfactory manner. It arose from the rule or principle on which the books have at all times been kept; and the abstracts were taken from the books as kept, and from the entries actually made under Mr. Bradley, and from no intention to do injustice to any one. Mr. G. was himself convinced that perfect accuracy could not be arrived at, as to the persons making the extra allowances, from an inspection of the books of the department. It might be done possibly by an examination of the correspondence in each case; but that would be an almost endless labor; and five months would not have been sufficient to examine the necessary letters and documents. He would unite with gentlemen in voting to suspend the printing, but protested against any inference being drawn even to the prejudice of the department from the transactions which were called in question.

Mr. CLAYTON said, he wished the gentleman from Tennessee, when he expressed his opinion that others believed no fraud was intended by the erasures, had confined himself to what he knew, or had better reason to believe, than he had condescended to name. The other members of the committee would think for themselves, and had not made that gentleman their organ to express any opinion on this subject. He said, he understood the gentleman to say, by way of excuse for these mutilated documents, that, in some of the cases, Mr. McLean had made the allowances. Sir, an inspection of the evidence will show that, in nearly all, if not in every case, the reverse is the fact. The select committee this morning reported on the affairs of the department; and the depositions and papers to show this, which have all been ordered to be printed, are referred to in, and form a part of, the report. Among these is a communication from Mr. McLean, in which he informs the committee that Mr. Bradley never made an allowance while he was in the office of Postmaster General. But, sir, there is yet another reason why these documents should not be printed. They are entirely evasive of the resolution of the Senate. In a majority of all the cases of extra compensation set forth in them, they do not state the "additional service" to be performed, and which was the consideration for the allowance. They are now spread on the Secretary's table, and you may see that they do not constitute, without the contracts, even an apology for an answer to the requisition made by the Senate. Generally, they do not give the length of the routes, or of the time in which they were to be performed—but leave you to refer to the contracts themselves, which it is not proposed to print. And in one case, where the excuse for the extra allowance is set down to be an increase of expedition, by carrying the mail through two hours sooner, the proof, as you will see by the depositions, is, that it was to be carried through only one hour and a half sooner than before the extra compensation was allowed. The law explicitly directs that the extra allowance shall be regulated by the original contract, and apportioned according to the increase of duty to be performed. To determine the propriety of the allowance, the additional service must be distinctly stated; and as this has not been done in most of the cases, the documents, without reference to the contracts, showing nothing, are not worth the cost of printing. But it is enough now to say that the Senate will not deliberately give publicity to what they know to be untrue.

Mr. GRUNDY hoped he had not mistaken the object of the motion now before the Senate. He had thought it was with a view to do justice to Mr. Bradley; so far he was willing to go; but let it be understood that he did not acquiesce in any denunciation of the officers of the Post Office Department. It was true Mr. Barry's name had been erased, and Mr. Bradley's substituted in its place; but the clerks tell us it was a mistake—that it was innocently done. He did not understand that the answer of the Postmaster General to the resolution of the Senate was evasive; he had not been able to give so full an answer as was desirable, perhaps, but at the next session it might be obtained. He knew that Mr. Bradley was charged with paying money, which he should not have been; but he also knew that it resulted from an innocent mistake of young clerks.

Mr. CHAMBERS said he had yielded the floor to afford other Senators an opportunity to explain their views. It was now proper to explain the objects of the memorial. It was no part of his duty to go into the proofs upon the subject, to show that the present Postmaster General has wilfully and corruptly made an allegation injurious to the reputation of the memorialist; or that erasures of Mr. Barry's name, and interlineations of Mr. Bradley's, now admitted to have been made at the department,

SENATE.]

Penal Code.

[MARCH 3, 1831.]

were made fraudulently and corruptly. His object required no such course, and therefore he did not pursue it.

Mr. Bradley has stated, and sworn, that the extra allowances mentioned in the memorial were made by Mr. Barry, and had made this fact the foundation of a charge preferred against Mr. Barry to the President of the United States. Mr. Barry's report, bearing the authority of his official station and his signature, asserts, that the extra allowances were made by Mr. Bradley. It therefore charges the statement and affidavit of the memorialist to be false. It is now admitted on all hands, and conclusively proved by an examination of the books of the department, that the allowances were made by the present Postmaster General, Mr. Barry, and not by Mr. Bradley; and that the name of Mr. Barry, originally and properly inserted in the abstract alluded to, has been erased, and the name of Mr. Bradley substituted; and it is therefore conceded that the representation given by Mr. Bradley is true, and that given by the report of Mr. Barry, the Postmaster General, false. This false report has been ordered by the Senate to be printed. The memorialist asks a suspension of this order. This, sir, said Mr. C., is the history of this singular affair. The question for consideration is, whether the Senate will contribute their aid to circulate a falsehood, and thereby make itself auxiliary to the distribution of a charge, now admitted to be utterly untrue, deeply offensive to the character of a man who has grown grey in useful service to his country, and who has attained an honorable old age in the midst of active life without reproach to his integrity. As a citizen of the same State, he had asked his protection; it had cheerfully been accorded; and he was happy to believe no member of the Senate would withhold a vote, now become necessary, to preserve an innocent man from an unmerited and unfounded imputation.

The question was then put on suspending the printing, and determined in the affirmative, *nem. con.*

#### PENAL CODE.

Mr. LIVINGSTON, of Louisiana, said, it would be remembered, that, on the last day of the last session, he had laid on the table a bill to establish a system of penal law, with the avowed intention of submitting it to the consideration of the Senate at this session. The time occupied by the trial of the impeachment during the beginning, and the extraordinary press of business during the remainder of the session, concurred with other circumstances in preventing him from bringing it up. Among them was a proposition for appointing commissioners to frame a code of laws for the District of Columbia; for that part of which, relating to penal law, this system forms an important point. That proposition having, within a few days, failed, Mr. L. said he would now, in pursuance of notice given on a former day, move for leave to bring in his bill. It was his intention, had time permitted, to have developed the principles of the bill, some of which would be found extremely important. Under present circumstances, he would confine himself to saying that it laid down general principles applicable to the subject, provided for the cases of those general acts which ought to be punishable under the powers vested in the General Government, in whatever part of the United States they may be committed, and those which

may be committed in places under the exclusive jurisdiction of the United States, including, of course, the District of Columbia—that it accurately defined all offences, provided as well for their prevention as their punishment—includes a complete system of procedure—a code of prison discipline, and a book of definitions, explaining all the technical words used in every part of the system. He would mention two important features in the plan—the one was, providing, by positive law, for defining and punishing offences against the laws of nations, and, among them, some which had hitherto been left without any sanction; such as offences against that law which regulated, in modern times, the conduct of civilized nations with respect to each other in time of war as well as of peace. As these were entirely new, Mr. L. said he wished, when the document was put in the hands of the Senators, they would pay particular attention to its provisions, as well to one most important principle which pervades the whole—the total abolition of the punishment of death. To this he invited the Senators to give a most serious reflection, that they might be prepared to meet the discussion which he should think it a duty to invite at the next session.

Having been prevented, by the reasons which he had mentioned, from explaining the provisions of the system in an address to the Senate, he would supply it by an introductory report which would be delivered to the members of both Houses, together with the system. Mr. L. then moved for leave to bring in the bill, which was granted.

Mr. ROBBINS said that he held a document on the subject of the abolition of the punishment of death, which he thought would be very useful to the Senate in forming an opinion on that subject. It consisted of extracts from reports made to the Legislature of Louisiana by the Senator from that State, which had been lately republished in Pennsylvania. He moved that it might be printed; which was ordered.

On motion of Mr. WOODBURY, the Senate then went into executive business, and sat with closed doors till four o'clock, when they took a recess till six.

#### EVENING SESSION.

The Senate re-assembled at six o'clock, and immediately went into the consideration of executive business, and sat with closed doors until half past seven.

Messrs. WOODBURY and BUNNELL were then appointed a committee, to join the committee appointed by the House of Representatives, to wait on the President of the United States, and inform him that, unless he had some further communications to make to that body, it was ready to adjourn.

The committee soon after returned, and notified the Senate that the committee had attended to the duty assigned them, and that the President informed them he had no further communications to make.

On motion,

Ordered, That the Secretary notify the House of Representatives that the Senate, having concluded the legislative business before it, are now ready to adjourn.

The Secretary having returned,

The PRESIDENT *pro. tem.* adjourned the Senate *sine die.*

DEC. 9, 1830, to FEB. 19, 1831.]

Choctaw Treaty.

[SENATE.]

## EXECUTIVE PROCEEDINGS.

THURSDAY, DECEMBER 9, 1830.

## CHOCTAW TREATY.

The following message was received from the President of the United States, by Mr. DONELSON, his Secretary:

*To the Senate of the United States:*

GENTLEMEN: I transmit herewith a treaty, concluded by commissioners duly authorized on the part of the United States, with the Choctaw tribe of Indians, which, with the explanatory documents, is submitted to the Senate for their advice and consent as to the ratification of the same.

ANDREW JACKSON.

December 9, 1830.

The message, treaty, and documents were read.

*Ordered*, That they be referred to the Committee on Indian Affairs, and that the treaty and documents be printed under an injunction of secrecy.

TUESDAY, DECEMBER 14.

The following motion, submitted by Mr. POINDEXTER, was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate copies of any letters or other communications which may have been received at the Department of War, from the chiefs and headmen, or any one of them, of the Choctaw tribe of Indians, since the treaty entered into by the commissioners on the part of the United States with that tribe of Indians, at Dancing Rabbit creek; and that he also be requested to inform the Senate, from the information which he may possess on that subject, whether any, and, if any, what number of Indians belonging to said tribe have emigrated to the country west of the Mississippi since the date of said treaty, and whether any reluctance has been manifested by said Indians, or any part of them, to emigrate according to the stipulations of the treaty; and, also, what number of said tribe had removed west of the Mississippi, according to former treaties entered into with them.

MONDAY, DECEMBER 20.

The following message was received from the President of the United States, by Mr. DONELSON, his Secretary:

*To the Senate of the United States:*

In compliance with the resolution of the Senate of the 14th instant, calling for copies of any letters or other communications which may have been received at the Department of War, from the chiefs and headmen, or any one of them, of the Choctaw tribe of Indians, since the treaty entered into by the commissioners on the part of the United States with that tribe of Indians, at Dancing Rabbit creek; and also for information showing the number of Indians belonging to that tribe who have emigrated to the country west of the Mississippi, &c. &c., I submit herewith a report from the Secretary of War, containing the information requested.

ANDREW JACKSON.

December 20, 1830.

The message and documents were read.

*Ordered*, That they be referred to the Committee on Indian Affairs, and be printed in confidence for the use of the Senate.

MONDAY, JANUARY 3, 1831.

The following message was received from the President of the United States, by Mr. DONELSON, his Secretary:

*To the Senate of the United States:*

Since my message of the 20th of December last, transmitting to the Senate a report from the Secretary of War, with information requested by the resolution of the Senate of the 14th December, in relation to the treaty concluded at Dancing Rabbit creek with the Choctaw Indians, I have received the two letters which are herewith enclosed, containing further information on the subject.

ANDREW JACKSON.

January 3, 1831.

The message and the accompanying documents were read.

*Ordered*, That they be referred to the Committee on Indian Affairs, and be printed under an injunction of secrecy.

TUESDAY, JANUARY 4.

Mr. WHITE, from the Committee on Indian Affairs, to whom was referred, on the 9th December, the treaty with the Choctaw Indians, together with the messages relating thereto, of the 20th December, and the 3d instant, reported the treaty without amendment.

THURSDAY, FEBRUARY 17.

The treaty with the Choctaw Indians was read the second time, and considered as in Committee of the Whole.

On motion of Mr. POINDEXTER,

*Ordered*, That it lie on the table.

The following motion, submitted by Mr. BENTON, was considered and agreed to:

*Resolved*, That the Committee on Indian Affairs be authorized to call before them any persons now in Washington city, and take their examinations, on oath, relative to the country destined for the use of the Choctaws, and other Indians, beyond the Mississippi, and the actual condition of the Indians who have removed; and report the said examinations to the Senate.

SATURDAY, FEBRUARY 19.

Mr. BENTON, from the Committee on Indian Affairs, who were authorized, by the resolution of the Senate of the 17th instant, to take depositions relative to the country destined for the use of the Indians beyond the Mississippi, submitted the answers of William Clark, superintendent of Indian Affairs at St. Louis, to certain interrogatories propounded by the committee.

The document was read.

The Senate resumed, as in Committee of the Whole, the consideration of the treaty with the Choctaw Indians; and, no amendment having been made, it was reported to the Senate.

Mr. WHITE submitted the following resolution, which was considered by unanimous consent:

*Resolved*, (two-thirds of the Senators present concurring,) That the Senate do advise and consent to the ratification of the treaty between the United States of America and the Mingoes, chiefs, captains, and warriors of the Choctaw nation, concluded at Dancing Rabbit creek on the 15th of September, 1830, together with the supplement thereto, concluded at the same place the 28th of September, 1830.

A motion was made by Mr. KNIGHT to amend the resolution, by inserting after "That," in the second line, the following: "disavowing the principle asserted by the commissioners, in the preamble, that the President cannot protect the Choctaw people in their rights and pos-

H. or R.]

First Proceedings in the House of Representatives.

[Dec. 6, 7, 1830.]

sessions in the State of Mississippi; but, on the contrary, he has full power and authority so to do, and with this asseveration."

And, after debate,

On motion of Mr. HENDRICKS, it was agreed to recommit the treaty to the Committee of the Whole.

On motion of Mr. HENDRICKS, to strike out the preamble of the treaty, the question was put—Shall the following words, "Whereas the General Assembly of the State of Mississippi has extended the laws of said State to persons and property within the chartered limits of the same; and the President of the United States has said that he cannot protect the Choctaw people from the operation of these laws: Now, therefore, that the Choctaws may live under their own laws, in peace with the United States and the State of Mississippi, they have determined to sell their lands east of the Mississippi, and have accordingly agreed to the following articles of treaty"—stand part of the treaty? And it was determined in the negative—yeas 11, nays 32.

Those who voted in the affirmative, are,

Messrs. Benton, Brown, Dudley, Ellis, Forsyth, Grundy, Hayne, King, Livingston, Tazewell, White.—11.

Those who voted in the negative, are,

Messrs. Barnard, Barton, Bell, Bibb, Burnet, Chambers, Chase, Dickerson, Foot, Frelinghuysen, Hendricks, Holmes, Iredell, Johnston, Kane, Knight, McKinley, Marks, Naudain, Poindexter, Robbins, Robinson, Ruggles, Sanford, Seymour, Smith, of Maryland, Smith, of South Carolina, Sprague, Troup, Tyler, Willey, Woodbury.—32.

So the motion to strike out the preamble was agreed to.

No further amendment having been made, the treaty was reported to the Senate, the question again put, and the amendment concurred in.

Mr. WHITE submitted the following resolution:

*Resolved*, (two-thirds of the Senators present concurring,) That the Senate do advise and consent to the ratification of the treaty between the United States of America and the Mingoes, chiefs, captains, and warriors of the Choctaw nation, concluded at Dancing Rabbit creek

on the 15th of September, 1830, together with the supplement thereto, concluded at the same place the 28th September, 1830, with the exception of the preamble.

MONDAY, FEBRUARY 21.

The Senate resumed the consideration of the treaty with the Choctaw Indians, together with the resolution, submitted the 19th instant, to ratify the same.

On motion of Mr. KNIGHT to amend the resolution, by inserting after the word "That," in the second line, the following words: "disavowing the principle asserted by the commissioners, in their negotiation, that the President cannot protect the Choctaw people in their property, rights, and possessions in the State of Mississippi"—it was determined in the negative—yeas 19, nays 25.

Those who voted in the affirmative, are,

Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Holmes, Johnston, Knight, Marks, Naudain, Robbins, Ruggles, Seymour, Silsbee, Sprague, Willey.—19.

Those who voted in the negative, are,

Messrs. Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hendricks, Iredell, Kane, King, Livingston, McKinley, Poindexter, Robinson, Sanford, Smith, of Maryland, Smith, of South Carolina, Tazewell, Troup, Tyler, White, Woodbury.—25.

On the question to agree to the resolution, it was determined in the affirmative—yeas 33, nays 12.

Those who voted in the affirmative, are,

Messrs. Bell, Benton, Bibb, Brown, Chase, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hendricks, Holmes, Iredell, Johnston, Kane, King, Knight, Livingston, McKinley, Poindexter, Robbins, Robinson, Ruggles, Sanford, Smith, of Maryland, Smith, of South Carolina, Tazewell, Troup, Tyler, White, Willey, Woodbury.—33.

Those who voted in the negative, are,

Messrs. Barton, Burnet, Chambers, Clayton, Foot, Frelinghuysen, Marks, Naudain, Noble, Seymour, Silsbee, Sprague.—12.

*Ordered*, That the Secretary lay this resolution before the President of the United States.

## DEBATES IN THE HOUSE OF REPRESENTATIVES.

MONDAY, DECEMBER 6, 1830.

At 12 o'clock precisely, the roll of members was called over by the Clerk of the House, (MATTHEW ST. CLAIR CLARKE,) and it appeared that one hundred and seventy-five Members and two Delegates were present.

The Clerk having announced that a quorum of the House was present—

Mr. ARCHER, of Virginia, rose, and said that he was requested by his colleague, the SPEAKER of this House, to state, that he was prevented from attending by indisposition; but that he expected to be able to reach the city before the usual hour of sitting of the House to-morrow. A gentleman who had arrived in the city in this morning's mail-boat, brought information that he passed the Speaker yesterday on his road to this place. In anticipation of the question which might be presented by the absence of the Speaker, Mr. A. said he had looked to the records, to ascertain what had been the practice of the House on like cases heretofore. He found that it had been twofold: in one or more cases, the House having, on the absence

of the Speaker, adjourned from day to day, and in two cases, occurring in one year, (1798,) having elected a Speaker *pro tempore*. He had risen, he said, only to make the communication which he had done from the Speaker, and to state what had been the practice heretofore. It would be for the House to determine what course it would pursue on the present occasion.

Mr. POLK, of Tennessee, said, after the communication which had just been made to the House, it being probable that the Speaker would be here to-morrow, he should propose that the House do now adjourn until to-morrow.

The question was taken on this motion, and decided in the affirmative.

So the House adjourned.

TUESDAY, DECEMBER 7.

The SPEAKER (the Hon. ANDREW STEVENSON, of Virginia) being present this day, took the chair at 12 o'clock.

DEC. 8, 9, 1830.]

President's Message.

[H. or R.]

The journal of yesterday having been read, the members elected since the last session were sworn in.

Messages were then interchanged between the two Houses, that they were respectively ready to proceed to business.

A committee was then appointed, to join such committee as should be appointed on the part of the Senate to wait upon the President, and inform him that the two Houses were formed, and ready to receive any communication which he might have to make.

Soon after which, Mr. HAYNES reported that the committee had performed the duty assigned to them.

On motion of Mr. TAYLOR, of New York, it was determined that two chaplains should be appointed, as usual, of different denominations, to interchange weekly between the two Houses.

The message of the President of the United States was then brought in by his private Secretary, Mr. Donelson, read, and ordered to be printed—referred to a Committee of the Whole on the state of the Union.

[The message and accompanying documents will be found in the Appendix.]

### WEDNESDAY, DECEMBER 8.

Mr. J. W. TAYLOR submitted the following resolution: "Resolved, That the standing committees be now appointed, pursuant to the rules and orders of the House."

Mr. HOFFMAN remarked, that the Speaker did not arrive until yesterday; that he had been, and still was, laboring under a painful indisposition; and he, therefore, moved that the resolve lie on the table; to allow him further time to make a selection of the committees.

Mr. TAYLOR hoped that his colleague would withdraw his motion for the present, to give him an opportunity to explain the reasons which had induced him to offer the resolution.

Mr. H. having withdrawn his motion,

Mr. TAYLOR observed, that yesterday the message of the President had been referred to a Committee of the Whole House on the state of the Union, and he supposed the House would this day resolve itself into a Committee of the Whole on the message of the President. Before going into committee, the standing committees must be appointed; for the Committee of the Whole would come to no resolutions for referring the different subjects contained in the message until the standing committees were appointed. If, however, it was the wish of the Speaker to defer the appointment of the standing committees of the House, he certainly should not object to it.

Mr. HOFFMAN entirely concurred with his colleague as to the propriety of appointing the standing committees before taking up the message for distribution to committees, but again referred to the short time the Speaker had been in the city, and his late severe and continued illness. Mr. H. concluded by again moving that the resolution lie on the table.

After a few words from the SPEAKER, intimating that he had the physical power to make the appointments, but that he had not yet received a list of the members who had taken their seats,

The question was put on the motion of Mr. HOFFMAN, and decided in the affirmative.

And the House adjourned.

### THURSDAY, DECEMBER 9.

Mr. TAYLOR moved that the House do now proceed to the consideration of the resolution yesterday submitted by him for the appointment of the standing committees of the House; and the question being taken thereon, It was decided in the affirmative.

The question was then put on the adoption of the resolution, and it was agreed to.

So the House agreed that the standing committees should now be appointed. [They will be appointed by the Speaker, and probably reported to the House tomorrow.]

### PRESIDENT'S MESSAGE.

On motion of Mr. HOFFMAN, the House then resolved itself into a Committee of the Whole on the state of the Union, Mr. WICKLIFFE in the chair.

Mr. HOFFMAN moved resolutions referring the various subjects of the President's message to different standing and select committees.

Some conversation then took place between Messrs. STRONG, HOFFMAN, WAYNE, and VANCE, as to the propriety of referring some of the subjects above noticed to a standing or select committee, when the Chairman suggested that the better mode would be to take the question on each resolution separately.

The first and second resolutions were adopted without objection.

The third resolution being read as follows, viz.

"Resolved, That so much of the said message as relates to the subscribing to the stock of private companies for internal improvement; and so much of the said message as relates to the distribution among the several States of the surplus revenue, after the payment of the public debt, be referred to a select committee."

Mr. STRONG considering the two subjects involved in the resolution to be distinct, and to depend on different principles, moved a division of the question, so as to refer the first clause to a select committee; and the last clause also to another select committee.

Mr. HOFFMAN, professing a willingness to separate the subjects if his colleague moved, and the House desired it,

The motion of Mr. STRONG was agreed to, and the subjects referred to distinct select committees.

The sixth resolution being read as follows:

"Resolved, That so much of the said message as relates to the public debt, the revenue, its security, and collection, the Bank of the United States, and the organization of a bank founded on public and individual deposits, be referred to the Committee of Ways and Means."

Mr. WAYNE moved to amend the said resolution, by striking out the words "the Bank of the United States, and the organization of a bank founded on public and individual deposits," and at the end of the said resolution to add the following:

"And that so much of the said message as refers to the Bank of the United States, and to the organization of a bank as a branch of the Treasury Department, be referred to a select committee."

Mr. TAYLOR moved for a division of the question, so that the sense of the committee should first be had on striking out.

The motion was agreed to; and,

The question being put by the CHAIR,

It was decided in the negative—only fifty-four rising in favor of striking out.

The remainder of the resolutions were then severally agreed to.

The committee then rose, and reported the resolutions as amended to the House.

The question being stated from the CHAIR to agree to the resolutions, as amended in committee,

Mr. WAYNE moved that the question be put on agreeing to all but the sixth.

No objection being made, the question was so taken, and all the resolutions were agreed to by the House, with the exception of the sixth.

Mr. WAYNE now renewed the motion which he had made in Committee of the Whole.

Mr. WAYNE, in supporting this motion, apologized for



H. OF R.]

*President's Message.*

[DEC. 9, 1830.]

troubling the House with a remark or two on this topic, at so early a period of the session. The first communication made to Congress by the present Executive, (at the last session,) intimated a doubt in his mind as to the propriety of rechartering the existing Bank of the United States. The portion of his message on this subject had been referred to the Committee of Ways and Means, who submitted to the House a report, in which they exhibited at great length their views, which were opposed to those expressed by the President. Should the present portion of his message be referred to the same committee, unless some great and unexpected change had taken place in their opinions since the last session, the subject would be met by men whose minds were already made up, whose sentiments had been publicly expressed, and who, therefore, could not be expected to give it that fair and unbiased consideration which its great importance demanded. The importance of the question touching the bank must be acknowledged by every one, as well as its agitating effect on the public mind, throughout every portion of the Union. He conceived it as only respectful to the President, when such a subject was by him officially recommended to the attention of Congress, to place it in such an attitude as should secure to it a calm investigation by persons who had not prejudged it. Mr. W. said he should not disguise the fact that his own views in relation to the rechartering of the present bank were such as would induce him to vote against it in every event; but what he wished at present was, that the House might ascertain whether it was practicable or not to organize an institution resting on the funds of the country, which, while it secured all the advantages intended to be attained by the existing bank, should avoid the dangers with which that establishment was by many conceived to be fraught. The inclination of his own mind was to the opinion that this was practicable; but he desired, at all events, that the question should be submitted to those who would go to its discussion untrammelled by any previous judgment. It was not from any feeling of hostility to the bank that he was induced to desire this, but from a wish for fairness in the treatment of the subject itself, and from respect to a communication made to Congress by the Chief Magistrate.

Mr. CHILTON, of Kentucky, said, that whilst he had, he trusted, a proper regard for the President of the United States, he had some regard also for the committee to whom it was proposed to refer this subject. He did not himself feel any particular interest in this matter, either for or against the bank. But, at the last session of Congress, a very able report upon the subject had been made by the Committee of Ways and Means, which he had no doubt placed the subject in as fair a point of view as it could be placed by a select or any other committee. He had heard no sufficient reason why the subject should now be taken out of the hands of that committee. As this subject, moreover, had been heretofore referred to the Committee of Ways and Means, to give it a different direction now, would be to cast a reflection on that highly respectable committee, at the head of which stands a gentleman whose character for firmness on the one hand, and integrity and abilities on the other, could not be questioned. Mr. C. was therefore opposed to the amendment.

Mr. CONDUCT, of New Jersey, desired that the question on Mr. WAYNE's amendment should be taken by yeas and nays, and it was ordered accordingly to be so taken.

Mr. DAVIS, of South Carolina, proposed to amend the amendment, so as to strike out the latter clause, and refer simply the question concerning the present bank, without the establishment of a substitute for it, to the consideration of a select committee.

This motion was negatived.

Mr. TAYLOR, of New York, said that, if the subject referred to in the message had been entirely new, he

should have no objections to the amendment proposed by the gentleman from Georgia, [Mr. WAYNE;] but when it was considered that, by the rules of the House, the report made at the last session by the Committee of Ways and Means was continued as a part of the business of the present session, that fact, he thought, furnished an objection against the sending of the same subject to a select committee. Such a measure would amount, in substance, to sending the report of one of the standing committees of this House to be reviewed by a select committee. Would this be respectful? Would it be treating the Committee of Ways and Means with that deference which was due to them, to take their report, (whether it was before the House, or had been referred to a Committee of the Whole House on the state of the Union, or a Committee of the Whole,) and send it to a select committee? What direction had been given to the report of last session, he had been unable to ascertain, the means not being at this time within reach of the officers of the House; but, whatever it had been, the report was a part of the business of the House continued over from last session, and was to be viewed in all respects the same as if it had been rendered at the present session. And he put it to the House whether it would be proper to send a report now made by one committee of the House, and submit it to another?

[The CHAIR here stated that he was informed by the Clerk that the report of the Committee of Ways and Means was at the last session laid on the table of the House.]

Mr. TAYLOR said, if that were the case, could any one disapprove an arrangement which would eventuate in sending the subject to a Committee of the Whole on the state of the Union, that it might there receive the fullest examination that any of its advocates could desire? He suggested to the House, therefore, that the course in the original motion was evidently the proper one.

Mr. HOFFMAN, of New York, said that, in making the motion he had done in reference to this clause of the President's message, he had not intended to express either approbation, or the contrary, as to the reasoning or the statement of facts it contained; nor had he supposed that his motion involved the slightest disrespect towards the Executive. He had been led to propose the disposition to be given to the subject, from no friendship or hostility to the present Bank of the United States: no expression of opinion on that subject was now called for.

[The CHAIR observed that the merits of the measure proposed in the message were not before the House, but simply a question as to the proper committee to whom it was to go.]

Mr. H. resumed, and said that he had made the foregoing observations expressly for the purpose of doing away any inference, from his motion, of his personal friendship or hostility toward the bank as now organized. That subject had always, heretofore, been referred to the standing committee of the House having cognizance of the finances of the country. He could not bring himself to believe that the opinions of the gentlemen forming that committee were so irrevocably fixed, as not to remain open to the developments of time and the influence of sound reasoning. Could he suppose this, he should certainly be in favor of referring the subject to some committee which should be differently constituted. It was indifferent to him what might be the disposition made by the House of this part of the message. If it was referred to a select committee, he hoped that such a committee would be selected as would be perfectly competent to the consideration of the matter; and if it was referred to the Committee of Ways and Means, he trusted that they would consider it dispassionately, and without prejudice. Either course would secure, he doubted not, a full and able investigation.

Mr. WAYNE again rose. It was, he said, from no want of respect to the Committee of Ways and Means that he

DEC. 10 to 13, 1830.]

Judge Peck.

[H. OF R.]

had been induced to desire that this important subject should be referred to a select committee. He again insisted, that when the subject of a national bank had been a second time, and in a more explicit and particular manner, recommended to the consideration of the House, it would not be respectful to the Chief Magistrate to send it back to a committee who had made up their opinion in opposition to that intimated by the Executive. He had not the least doubt that if the light of truth could be made manifest to them, the minds of those gentlemen were open to conviction on this as on every other subject; but all knew that truth was often difficult of access, and sometimes not less difficult to be received, and this acknowledgment involved no imputation whatever on the uprightness of that committee. He had another reason for wishing the amendment to prevail; it was not to be expected that, unless the question was submitted to a few minds which felt a strong interest in regard to it, it would be examined with that application and industry which were indispensable to the full development of the subject. The suggestion of the President involved a reference to the amount and places of deposit, their effect upon commerce, &c. &c. which could not be gone into at large unless by a committee specially devoted to the subject. If the House approached the investigation through its Committee of Ways and Means, could it expect as full and detailed a report as if by a select committee, whose views corresponded with those of the President? He knew that gentlemen would object, to his proposition; that the reference to a select committee would excite a belief in the community that the United States' Bank was not to be rechartered, and thus greatly depress the price of bank stock. Admit that such might be the effect, was this a valid objection? Was the House bound to preclude inquiry on a most important subject, from a fear that the discussion might affect the price of stocks? Suppose the question should be deferred, it must come up at last; and would it not affect stock then as much as now? Mr. W. said, when the question came up on rechartering the bank as now organized, he should vote against it, because its benefits enured to individuals and not to the Government, who might by means of such an institution contribute to relieve the people of the Union from unjust taxation to the amount perhaps of millions annually. He should, however, abstain from entering upon the merits of the main question at this time. He was aware that it would not be in order to touch upon them. He had had the honor of offering a resolution on the same subject at the last session, and should renew it at the present session. His only motive then, as now, had been to promote an inquiry after truth. He believed that the appointment of a select committee would elicit a mass of facts which it was desirable to obtain, and which would not otherwise come before the House, tending to show whether the measure proposed by the Executive were practicable or not.

Mr. CAMBRELENG, of New York, said that if the yeas and nays had not been ordered on this subject, he should not have risen. He was opposed to the amendment of the gentleman from Georgia, because he viewed the whole question as premature at this time. When the proper time arrived for its consideration, he should certainly be in favor of referring it to a select committee. It had been so referred when the bank petitioned for a renewal of its charter. He had the greatest respect for the gentleman at the head of the Committee of Ways and Means, [Mr. McDUFFIE,] but he thought the subject ought never to come before the House until the bank should again appear as a petitioner for the renewal of its charter. The President, in presenting his message to Congress, had glanced his eye over the whole interests of the country, and had, very properly, given to the House his views of a great and weighty question of public policy. It was a question which involved the circulating medium, and, in

fact, the property of the whole nation. As such, the question was before the people—it was a question for the nation to decide. In this House, it was not fairly presented as a subject of inquiry until the bank should apply for a new charter; when that time arrived, Mr. C. said he should be for sending it to a select committee; but at present the whole matter was premature.

The question was then taken on the motion of Mr. WAYNE, and decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Alexander, Allen, Angel, Barnwell, Baylor, Bell, James Blair, John Blair, Boon, Borst, Brodhead, Carson, Chandler, Claiborne, Clay, Coke, Conner, Daniel, Davenport, Warren R. Davis, Earll, Findlay, Ford, Foster, Fry, Gaither, Gordon, Hall, Halsey, Hammons, Haynes, Hinds, Leonard Jarvis, Cave Johnson, Kennon, Perkins King, Lamar, Lea, Leavitt, Lecompte, Lewis, Loyall, Lumpkin, Thomas Maxwell, Monell, Norton, Nuckolls, Pettis, Polk, Potter, Powers, Rencher, Roane, Sanford, Scott, Augustine H. Shepperd, Shields, Standefer, Taliaferro, Wiley Thompson, John Thomson, Trezvant, Tucker, Wayne, Weeks, Wickliffe, Yancey.—67.

NAYS.—Messrs. Alston, Anderson, Arnold, Bailey, Barber, Barringer, Bartley, Beekman, Bockee, Brown, Buchanan, Butman, Cahoon, Cambreleng, Chilton, Clark, Coleman, Condict, Cooper, Cowles, Craig, Crane, Crawford, Creighton, Crocheron, Denny, Dickinson, Draper, Drayton, Dudley, Duncan, Eager, Ellsworth, G. Evans, J. Evans, H. Everett, Finch, Gilmore, Gorham, Green, Grennell, Harvey, Hemphill, Hodges, Hoffman, Holland, Howard, Hughes, Hunt, Huntington, Ingersoll, Irwin, Irvin, Jennings, Johns, Kendall, Kincaid, A. King, Lent, Letcher, Lyon, Magee, Mallary, Marr, Martindale, Lewis Maxwell, McCreery, McIntire, Mercer, Miller, Mitchell, Muhlenberg, Overton, Patton, Pearce, Pierson, Randolph, Reed, Richardson, Rose, Russel, William B. Shepard, Semmes, Sill, Smith, Speight, Ambrose Spencer, Sprigg, Stanbery, Sterigere, Storrs, Strong, Sutherland, Swann, Swift, Taylor, Tracy, Vance, Varnum, Verplanck, Vinton, Washington, Whittlesey, Edward D. White, Williams, Wilson, Wingate, Young.—108.

So the House refused to amend the resolution, and the resolution, as reported by the Committee of the Whole, was agreed to.

The House then adjourned.

FRIDAY, DECEMBER 10.

After the reception of a great number of petitions and resolutions:

On motion of Mr. BUCHANAN, in order to give time for the House to make the preliminary arrangements for the trial of Judge Peck, which commences in the Senate chamber at 12 o'clock on Monday next, the House agreed to meet at 11 o'clock on that day.

And then the House adjourned.

MONDAY, DECEMBER 13.

JUDGE PECK.

Mr. BUCHANAN, on behalf of the managers appointed to conduct the impeachment against Judge James H. Peck, submitted the following report, which was agreed to:

The Committee of Managers appointed by the House of Representatives to conduct the impeachment against James H. Peck, Judge of the district court of the United States for the district of Missouri, report, that they have had under consideration the answer of Judge Peck to the article of impeachment exhibited against him by the House, and recommend the adoption of the following resolution thereto:

H. of R.]

*Duties on Sugar.—United States and Denmark.—Election of Chaplain.*

[DEC. 13, 1830.]

## REPLICATION

By the House of Representatives of the United States to the answer and plea of James H. Peck, Judge of the district court of the United States for the district of Missouri, to the article of impeachment exhibited against him by the said House of Representatives.

The House of Representatives of the United States having considered the answer and plea of James H. Peck, Judge of the district court of the United States for the district of Missouri, to the article of impeachment against him by them exhibited, in the name of themselves and of all the people of the United States, reply, that the said James H. Peck is guilty in such manner as he stands impeached; and that the House of Representatives will be ready to prove their charges against him at such convenient time and place as shall be appointed for that purpose.

*Resolved*, That the foregoing replication be put in to the answer and plea of the aforesaid James H. Peck, on behalf of this House; and that the managers be instructed to maintain the said replication at the bar of the Senate, at such time as shall be appointed by the Senate.

## DUTIES ON SUGAR.

Mr. HAYNES, of Georgia, submitted the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the duties on sugar imported from foreign countries into the United States.

Mr. SUTHERLAND required that the question be taken upon the consideration of the resolution; and Mr. WILLIAMS demand the yeas and nays on the question. They were ordered by the House, and, being taken, stood as follows:

YEAS.—Messrs. Alexander, Alston, Anderson, Angel, Archer, Armstrong, Barbour, Barnwell, Barringer, Baylor, Bell, James Blair, John Blair, Boon, Brodhead, Brown, Cambreleng, Campbell, Carson, Claiborne, Clay, Coke, Conner, Craig, Crocheron, Warren R. Davis, DeSha, De Witt, Draper, Drayton, Dudley, Earl, Gaither, Gordon, Hall, Halsey, Hammons, Harvey, Haynes, Hinds, Holland, Hoffman, Hubbard, Jarvis, Jennings, Cave Johnson, Lamar, Lea, Lecompte, Lent, Lewis, Loyall, Lumpkin, Thomas Maxwell, McDuffie, McIntire, Mitchell, Monell, Nuckolls, Patton, Pettis, Polk, Potter, Powers, Rencher, Roane, Sanford, William B. Shepard, Augustine H. Shepperd, Shields, Spreight, Richard Spencer, Stanbery, Standefer, Talaferro, Wiley Thompson, Tucker, Verplanck, Wayne, Weeks, Campbell P. White, Williams, Wilson.—83.

NAYS.—Messrs. Arnold, Bailey, Barber, Bartley, Bates, Beckman, Bockee, Borst, Buchanan, Butman, Cahoon, Clark, Coleman, Condict, Cooper, Coulter, Cowles, Crane, Crawford, Creighton, Crowsinshield, Daniel, Denny, Dickinson, Doddridge, Duncan, Dwight, Eager, Ellsworth, George Evans, Horace Everett, Findlay, Finch, Ford, Forward, Fry, Gilmore, Green, Grennell, Gurley, Hawkins, Hemphill, Hodges, Howard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Irwin, Irvin, Richard M. Johnson, Kendall, Kennon, Kincaid, Perkins King, Adam King, Leavitt, Lyon, Magee, Mallary, Marr, Martindale, Lewis Maxwell, McCreery, Miller, Muhlenberg, Overton, Pearce, Pierson, Ramsey, Reed, Richardson, Rose, Russell, Scott, Sill, Smith, Ambrose Spencer, Spriggs, Sterigore, Stephens, Storrs, Strong, Sutherland, Swann, Swift, Taylor, John Thomson, Tracy, Vance, Varnum, Vinton, Washington, Whittles y, Edward D. White, Wickliffe, Yancey, Young.—99.

So the House refused to consider the resolution.

## UNITED STATES AND DENMARK.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives of the United States:*

I transmit to the House of Representatives printed copies of the convention between the United States and his Majesty the King of Denmark, concluded at Copenhagen on the 28th of March, 1830, and ratified by and with the advice and consent of the Senate.

ANDREW JACKSON.

WASHINGTON, December 10, 1830.

The message and convention were referred to the Committee on Foreign Affairs, and ordered to be printed.

The SPEAKER likewise laid before the House the following letter, which was read; and, on motion of Mr. SPENCER, of New York, ordered to be referred to the Committee on Agriculture:

PHILADELPHIA, December 7, 1830.

SIR: You will receive with this letter a silken flag, bearing the colors of the United States. This flag is made entirely of American silk, reeled from the cocoons, prepared and woven by Mr. John D'Honergue, silk manufacturer. The coloring has been done by the best artist he could procure in the city of Philadelphia; he himself not professing to be a dyer.

The staff of this flag, with the eagle, measures about fifteen feet; the flag itself is twelve feet and a half long, and six feet wide. It is woven all in one piece, without a seam.

I beg, sir, you will be so good as to present this flag, most respectfully, in my name, to the honorable House over which you preside, as a sample of American industry, thus applied, for the first time, to the most valuable of American productions; and as a result of the efforts they have made during the last five years for the promotion of the important branch of agriculture to which we owe the rich material of which this flag is composed.

I have the honor to be, with the highest respect, sir, your most obedient and most humble servant,

PETER S. DUPONCEAU.

Hon. ANDREW STEVENSON,

*Speaker of the House of Representatives.*

A message was received from the Senate, informing the House that they were in their public chamber, and ready to proceed on the trial of the impeachment of James H. Peck: and that seats were provided for the accommodation of the members of the House.

Whereupon, Mr. BUCHANAN submitted the following resolution; which was carried, *nem. con.*

*Resolved*, That a message be sent to the Senate to inform them that this House have agreed to a replication, on their part, to the answer and plea of James H. Peck, Judge of the district court of the United States for the district of Missouri, to the article of impeachment exhibited to the Senate against him by this House, and have directed the managers appointed to conduct the said impeachment to carry the said replication to the Senate, and to maintain the same at the bar of the Senate, at such time as shall be appointed by the Senate.

## ELECTION OF CHAPLAIN.

Mr. TAYLOR moved that the House do now proceed to the election of a chaplain; which motion was agreed to.

Messrs. ARCHER, WHITTLESEY, and FORWARD were appointed tellers: whereupon,

Mr. ARCHER nominated the reverend Mr. Post; Mr. FORWARD nominated the reverend Mr. Thomas; Mr. WHITTLESEY nominated the reverend Mr. Gurley; and Mr. HUBBARD nominated the reverend Mr. Palfrey.

On counting the first ballot, it appeared that 180 votes were given in—necessary to a choice 91: of which Mr. Post received 83; Mr. Gurley, 46; Mr. Palfrey, 34; Mr. Thomas, 12; and there were five blank votes.

After two other ineffectual ballotings,

DEC. 14, 1830.]

*Sunday Mails.—The Tariff.*

[H. OF R.]

On the fourth ballot there were 170 votes—necessary to a choice, 86: Mr. Gurley received 91; Mr. Post, 75; and there were four scatterings.

So the reverend Ralph R. Gurley was duly elected Chaplain on the part of the House of Representatives for the present session.

Mr. JOHNSON, of Kentucky, remarked that there was a difference of opinion, at least in his quarter of the House, as to the order which should be taken in attending the trial of Judge Peck, in the Senate of the United States. Some were of opinion that the House should attend in a body; others thought that it would only be necessary for the managers on the part of the House to attend during the trial. At the last session, said Mr. J., the House were in attendance; and it was thought by many members that the same course would be pursued at this session. He wished, for his own part, to have a correct understanding of the subject, and he would thank the Chair to give to the House his opinion as to the course that should be pursued.

The SPEAKER stated that the resolution of the House at the last session was confined to its attendance before the court of impeachment for a single day. The Clerk, however, would read the resolution.

[The resolution having been read, which was, in effect, that the House would in a body attend in the Senate chamber for a certain day, to support the charges against Judge Peck]—

Mr. BUCHANAN rose, and observed, that there seemed to be a misunderstanding upon the subject. With the permission of the House he would state the course that had been pursued by the managers. They had examined all the precedents which had occurred in this country, to guide them to a correct performance of their duty. It was ascertained that, since the adoption of the present constitution, there had been three impeachments, viz. those of Messrs. Blount, and Pickering, and Judge Chase. On the trial of the two first, the House did not attend in a body, but left it to the managers to conduct the impeachment; on the trial of Judge Chase, they did attend every day. It not being considered by the managers of the pending trial that any principle so important as to interrupt the legislative business of the House was involved in the present case, they had gone to the Senate this day, as managers, and presented to that body the replication agreed upon by the House. Mr. B. further remarked, that he had consulted the English precedents. On the trial of Warren Hastings, the House of Commons attended at the commencement of the trial, but they did not continue to do so. On the trial of the Earl of Macclesfield, they did not attend until his conviction by the House of Lords; and then they attended in consequence of a message having been sent them by that body, that they were ready to pronounce judgment on the impeached, if the House of Commons would attend and demand it.

Mr. B. would not advocate the attendance or non-attendance of the House at the trial which was to take place. He had felt it to be his duty to state the course which had been pursued on previous occasions of impeachment, and what had been done by the managers in the present case, and to state that his sole object was to do that which would best please the House. No motion having been made this morning on the subject, the managers had felt it to be their imperative duty to attend at the bar of the Senate, and present the replication which had been agreed upon.

Mr. JOHNSON, of Kentucky, said, that one great object of his rising had been to obtain from the managers an explanation of the course which they had taken. For his part, he wanted to go on with the public business. He recollected, however, the great debate in the Senate at the last session, and that it was nearly impossible to retain a quorum of the House; if it were probable such would be the case on the present occasion, and the House should be compelled to adjourn from day to day for want of a quorum,

how much soever he wished the public business attended to, he would prefer that the House itself should conduct the impeachment.

Mr. J. was about to proceed, when the SPEAKER reminded him that there was no proposition before the House, and suggested the propriety of his submitting a resolution on the subject.

Mr. J. declining to make any distinct motion at this time, Adjourned.

TUESDAY, DECEMBER 14.

SUNDAY MAILS.

A memorial was presented by Mr. COULTER, on the subject of Sunday mails—recommending that the mail should be discontinued on the sabbath. On its presentation, he moved its reference to the Committee on the Post Office.

Mr. JOHNSON, of Ky., objected to giving the petition the direction moved by the gentleman who presented it. He observed, that if the authors of the petition had an advocate or advocates on this floor, he was perfectly willing that the report formerly made by the Post Office committee on the general subject should at any time be called up. Let the House hear what gentlemen had to say on a subject which he had always thought, and would now say, ought never to have been brought into the Hall of Congress. He was desirous to hear what could be said in favor of Congress interfering with religious considerations. The committee had acted on the subject, and it would not do so again, unless compelled to do so by an express order of the House. He hoped the gentleman from Pennsylvania [Mr. COULTER] would acquiesce in the motion which he would now make, that the petition be laid upon the table, or, rather, that it be referred to a Committee of the Whole on the state of the Union; and he made that motion.

Mr. COULTER said that he felt very indifferent what direction should be given to the petition. He had always considered it proper, when the House was addressed in a decorous manner, on any subject proper for legislation, to give the petition a respectful consideration. In the present case, as the course indicated by the chairman of the Post Office committee was likely to effect the very object which the petitioners had in view, viz. to have the subject discussed, and obtain some action of Congress in relation to it, he was entirely willing it should be adopted. He had made a different motion, only out of the courtesy which he supposed due to the Post Office committee, and in compliance with the custom of the House. He had no doubt that the honorable chairman of the Post Office committee was both competent and willing to meet the discussion, which it was the object of the prayer of the petitioners to invite. If they had an advocate in the House, that advocate would doubtless avail himself of the privilege of debating the question without being specially invited so to do by any one. Mr. C. said it was not his purpose to avow himself as their champion, as he did not feel himself pledged to any particular course in the matter; he should endeavor, on this as on other occasions, to do what he considered his duty to his constituents demanded. If that duty led him to advocate the cause of these petitioners, he should be ready, in so doing, to meet even the gentleman from Kentucky.

Mr. JOHNSON again rose, but the SPEAKER suggesting that there was no proposition before the House, the petition was referred to the Committee of the Whole on the state of the Union, by the acquiescence of the mover.

Mr. HAYNES moved the reference of a petition to another committee; which was assented to.

THE TARIFF.

Mr. BARRINGER submitted the following resolution:

H. OF R.]

Live Oak Plantations.

[DEC. 15, 16, 1830.]

*Resolved*, That the Committee of Ways and Means be instructed to report a bill reducing the duty on bar iron, made by hammering, to the amount of duty imposed by the law of 1816.

Also, to reduce the duty on cotton bagging to two cents per square yard.

Also, to reduce the duty on coarse woollen goods, costing less than fifty cents per square yard at the place whence imported, to an ad valorem duty of twenty-five per cent.

Also, to reduce the duty on coarse wool, costing less than ten cents per pound at the place whence imported, to an ad valorem duty of twenty per cent.

Also, to reduce the duty on brown sugar to two cents per pound.

Mr. CONDUCT demanded the question of consideration on this resolution; and Mr. FINCH called for the yeas and nays on the question. They were ordered by the House, and, being taken, stood as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Anderson, Archer, Barbour, Barnwell, Barringer, Baylor, Bell, James Blair, Brodhead, Cambreleng, Campbell, Carson, Chandler, Claiborne, Clay, Coke, Conner, Craig, Crocherson, Davenport, Warren R. Davis, Desha, De Witt, Draper, Drayton, Dudley, Foster, Gaither, Gordon, Hall, Hammons, Haynes, Hinds, Holland, Jarvis, Jennings, Cave Johnson, Lamar, Lea, Lent, Lewis, Loyall, Lumpkin, McDuffie, McIntire, Nuckolls, Patton, Polk, Potter, Rencher, Roane, Wm. B. Shepard, Aug. H. Shepperd, Speight, Richard Spencer, Standefer, Taliaferro, Wiley Thompson, Tucker, Verplanck, Campbell P. White, Williams, Wilson.—66.

NAYS.—Messrs. Angel, Armstrong, Arnold, Bailey, Barber, Bates, Beckman, John Blair, Bockee, Boon, Borst, Brown, Buchanan, Butman, Calhoun, Clark, Coleman, Condict, Cooper, Coulter, Cowles, Crane, Crawford, Crowninshield, Daniel, Denny, Dickinson, Doddridge, Duncan, Dwight, Eager, Earll, Ellsworth, George Evans, Joshua Evans, Horace Everett, Findlay, Finch, Ford, Fry, Gilmore, Gorham, Grennell, Gurley, Halsey, Harvey, Hawkins, Hemphill, Hodges, Hoffman, Howard, Hubbard, Hughes, Huntington, Ihrie, Irwin, Irvin, R. M. Johnson, Kendall, Kennon, Kincaid, Perkins King, Adam King, Leavitt, Iecompte, Letcher, Lyon, Magee, Marr, Martindale, Thomas Maxwell, Lewis Maxwell, McCreery, Mercer, Miller, Mitchell, Monell, Mullenberg, Overton, Pearce, Pettis, Pierson, Ramsey, Reed, Richardson, Rose, Russel, Sanford, Scott, Shields, Sill, Smith, Ambrose Spencer, Sprigg, Sterigere, Stephens, Storrs, Strong, Sutherland, Swann, Swift, Taylor, John Thomson, Tracy, Vance, Varnum, Vinton, Washington, Weeks, Whittlesey, E. D. White, Wickliffe, Yancey, Young.—114.

So the House refused to consider the resolution.

### WEDNESDAY, DECEMBER 15.

This day was consumed in the reception and reference of petitions and resolutions of inquiry.

### THURSDAY, DECEMBER 16.

Mr. TRACY, on rising to present a petition, remarked, that the subject-matter of the petition which he was about to present, was one of great importance, not only to his own immediate constituents, but to the whole section of the country bordering on Lake Ontario.

It might be recollected, he said, that, at the last session of the present Congress, a law was passed, making an appropriation for the survey of the mouth of Oak Orchard creek, about middle distant between Niagara and Genesee rivers. This survey was carried into effect the last summer, by General Swift, an experienced engineer, whose report accompanied the petitions, by reference to which report it would appear that the benefits which would result from the improvement of the mouth of said

crack, for the purpose of a harbor, would exceed the most sanguine expectations of its projectors.

Mr. T. remarked, that the formation of a harbor on the contemplated site was one of a strictly national character. That it would greatly enlarge the facilities of commerce on the Northern lakes, but, in case of war, would contribute to the common defence of the country, in a proportionate degree to those on the seacoast. Mr. T. concluded by saying that the section of the country bordering on the Northern lakes had never asked much aid from the General Government for the promotion of national objects, and that they had received but a small proportion of what they had asked; and he hoped this subject would receive from the appropriate committee, to whom it would be referred, all the attention which its importance required.

The resolution yesterday submitted by Mr. BOON, of Indiana, was taken up, considered, and agreed to.

The following resolution, yesterday submitted by Mr. WHITE, of Florida, was taken up:

*Resolved*, That the Secretary of the Navy be directed to communicate to this House copies of the correspondence of the superintendent, and reports of the overseer of the live oak plantations near the navy yard at Pensacola.

Mr. SPEIGHT offered the following amendment:

“And that he be further directed to communicate to this House copies of all correspondence, contracts, deeds, or other papers, connected with the purchase of live oak lands in Florida, in the possession of, or within the control of the Navy Department; the quantity purchased; the persons from whom the purchases were made; the prices given; to whom paid, when paid, and on what authority; together with all other information tending to show the value of such lands at the time of the purchase, as well as the quantity and value of the live oak timber on each tract, fit for naval purposes.”

Mr. WHITE, of Florida, said he did not object to the amendment proposed by the gentleman from North Carolina, and would accept it as a modification of his resolution, although all the information called for by it had at the last session been communicated to Congress. The object he had in view was a simple one, and related to a subject of more importance than might at first be imagined. The Secretary of the Navy, in his report to the President, and by him communicated to Congress, holds the following language:

“Further efforts have been made for the execution of this act, as far as it relates to the preservation of the live oak growing on the coasts of the Atlantic and Gulf of Mexico.

“By the fourth section of this act, the President is authorized to provide for the preservation of this timber; but it seems to have been intended that the power should be limited to that object. An interpretation of the law has heretofore been entertained, extending this power not only to the planting of the acorns, and the cultivation of plantations of young trees, but to the purchase from individuals of lands producing them. The paper accompanying this, marked D, shows the amount which has been expended on these plantations, and the sums which have been paid to individuals for the purchase of tracts of such land.

“When it is considered that this timber is the natural product of the coast of the United States, from the St. Mary's to the Sabine; that the greater part of this belongs to the United States, and is proposed to be retained with a view to preserving a supply of this important material for the navy, it can scarcely be necessary for the present to engage in its artificial propagation or culture.

“Under an impression that this system is neither expedient, nor in conformity to the intentions of the act, an order has been given to discontinue the works after the expiration of the present year.

“But the preservation of this timber is an object of



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great importance, and should be prosecuted with an active and undeviating purpose."

He has exhibited in this report the expenses of a public work recommended by his predecessor, upon the concurrence of the most experienced naval officers, and sanctioned by Congress, and has announced his determination to discontinue it at the end of this year. The expenses to which the Government have been subjected, are only disclosed by him. The extent, progress, and benefit of the work is not presented, and can only be understood by having copies of the papers called for in the resolution he had the honor to submit. To form a just idea of any public improvement, the advantages as well as expenses should be exhibited to those who are to decide whether the policy of the country requires its continuance.

From a perusal of the report of the Secretary of the Navy, one would be led to believe that an unauthorized interpretation had been put by his predecessor upon the third (erroneously called fourth) section of the act for the gradual improvement of the navy. It had fallen to his lot to know something about this subject, which, as it has not been disclosed in the report, ought now to be stated here.

The subject of forming plantations of live oak for the future supply of that valuable timber for the navy, was first introduced by a resolution in this House, on the 12th of January, 1827. By that resolution, the Committee on Naval Affairs were instructed to inquire into the expediency of forming plantations for rearing live oak for the future supply of the navy. It passed by an almost unanimous vote; and it was then distinctly announced that the timber was so rapidly disappearing, that, unless artificial propagation and culture were resorted to, there would not be a sufficient quantity in a few years for naval purposes.

It never was conceived that the act for the gradual improvement of the navy conferred power to make purchases of land. No such "interpretation was ever entertained," and no such power claimed or exercised. On the contrary, it was believed that the Executive had no such authority; and as it was considered that the public interests would be promoted by the purchase of a few individual claims, to complete a proposed reservation of the public land near a navy yard, a specific appropriation was made in the bill making appropriation for the navy in 1828, and will be found in the third section of that bill, as follows:

"Be it further enacted, That there be, and is hereby, appropriated for the purchase of such lands as the President of the United States may think necessary and proper to provide live oak and other timber for the use of the navy of the United States, a sum not exceeding ten thousand dollars," &c.

This is the authority under which the purchases were made, and not the fourth section of the act for the gradual improvement of the navy.

The object of this provision was distinctly explained in a communication to the Committee on Naval Affairs in the Senate and House of Representatives, and by them to the respective branches of Congress to which they belonged. It was proposed by the President to make a reservation of the peninsula formed by Pensacola bay and St. Rosa's sound, near to the navy yard, for the live oak then upon it, and to make an experiment of, or its further propagation by, artificial culture. The situation was perhaps the best in the United States. The promontory between these two bodies of salt water, from its peculiar position and almost insular form, presented advantages which were not offered on any other part of that coast. At the distance of eighteen or twenty miles up the sound, the waters approached within half a mile, which afforded an opportunity of keeping out, with little care and expense, the fires which are so destructive to the young trees.

There were within this boundary a few individual claims to be extinguished, to give the United States exclusive jurisdiction and possession of the land. The contiguity of this land, too, to the navy yard, rendered it accessible at all times to the officers, and subject to their superintendence. A plan was made at the General Land Office, the price to be paid stipulated, the situation well understood, and the intention of the Government made known, and, with a full knowledge of all these facts, Congress made the appropriation. This took place in that year, when a majority of both committees, and of both Houses of Congress, were opposed to the administration, so that there was no overstrained construction, no absurd and arbitrary interpretation, to make these purchases. If the attack is intended to be made upon the policy of the measure, it is impugning the decision of Congress. The Secretary has also stated that live oak is the "natural product" of the whole coast from St. Mary's to the Sabine. This is assumed as the ground for abandoning the policy adopted by Congress, and continued by this administration from the 4th of March, 1829, up to this time. I regret that I am under the necessity of differing from the Secretary so widely in this statement. If the honorable Secretary had referred to the respectable naval officers in the other end of the building, they would have told him, from information acquired from an intimate personal acquaintance with that coast, that the live oak is found sparsely scattered at most remote distances, and in small bodies. If artificial culture is not resorted to, and the fires kept out of the reservations, there will not be enough in fifty years to build a West India squadron.

As I have the honor to represent the territory in which this establishment is located, I desire to have the subject fairly placed before Congress, and let them decide whether the public interests will not be promoted by the continuance of the experiment. The reports will show that there are 70,000 live oak trees upon the land purchased, which, in half a century, or even a quarter, will be worth ten times the amount ever expended upon them.

Mr. WHITE having accepted the amendment of Mr. SPEIGHT as a modification of his resolution,

Mr. HOFFMAN moved further to amend it, by adding the following:

"And all other information in the power of the department to give, relative to a production and providing a supply of live oak, and the measures taken respecting the growing thereof, and the expenses of such measures."

Mr. HOFFMAN, on offering this amendment, said, that the subject of this resolution was now before the Committee on Naval Affairs, in consequence of a reference to that committee of a part of the annual message of the President. His object in moving this amendment was to enlarge the proposed call, so as to embrace all the information on the subject which it was in the power of the department to communicate. He was not aware, he said, whether Congress had, or had not, in any way, sanctioned the policy of planting. He did not rise to express any opinion on that question at present, but only desired to have all the information which could be brought to bear upon it.

Mr. WHITE accepted the amendment.

Mr. WICKLIFFE, of Kentucky, proposed an amendment, to include also an inquiry into the measures adopted for "the preservation" of the live oak timber. He wanted to get at information on this subject. He understood that there had been a corps of overseers employed about that business for the last and several preceding years. He wished to know, from authority, what they were about.

Mr. WHITE accepted also this amendment.

The resolution, as thus amended, was agreed to, *nem. con.*

Mr. RICHARDSON submitted the following:

*Resolved*, That a select committee on education be ap-

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pointed to take into consideration all measures and propositions relative thereto, which shall be referred to them, and to report thereon by bill or otherwise.

On offering the above resolution,

Mr. RICHARDSON said, that, in explanation of his object in submitting the resolution proposing the appointment of a select committee on education, he begged leave to offer a few remarks. At the last session of Congress, said Mr. R., I proposed the establishment of a standing committee on education. That proposition was not sustained. The object of the proposition, I think, was misapprehended. All that passed at the last session gave cause of regret that there was no appropriate committee to whom to refer the numerous applications touching that subject. In the form of memorials, resolutions, and motions, there were at the last session not less than thirty applications to this House for acts of legislation for purposes of education. These applications were from various parts of the Union, and few only were finally acted on. From Arkansas there was a call for legislation for the benefit of common schools. From Alabama, for the benefit of Belleville Academy, of Green Academy, of La Grange College, and the University of Alabama. From Michigan, for the benefit of the University of Michigan. From Louisiana, for the benefit of Jefferson College, in that State. From Rhode Island, for the benefit of Brown University, in that State. From Kentucky, for the benefit of the Asylum of Deaf and Dumb, the Hardin Academy, and Transylvania University, in that State. From Ohio, for the benefit of common schools, the education of deaf and dumb, a female academy, and of Kenyon and Ripley Colleges, in that State. From Pennsylvania, for the benefit of Jefferson and Washington, Madison and Alleghany Colleges, and the Western University, in that State. From Mississippi, for the Franklin Academy. From New York, for the benefit of the Institution of Deaf and Dumb, and of the Academy of Arts and Design, in that State. From the District of Columbia, for the benefit of free schools in Alexandria and in the city of Washington, and of the Columbian College, in this District. Other applications from other quarters were made in relation to the same subject. They all evince great solicitude in relation to this momentous concern. These applications were referred to various committees charged with other interests of importance. A number of them were referred to the Committee on the Public Lands. I have, said Mr. R., in the ability and fidelity of that committee the most perfect confidence. But the labors of that committee are arduous. It could never have been intended that that committee should have charge of the great subject of education. The applications mentioned would be sufficient of themselves to occupy the whole attention of an able committee. For the want of an appropriate committee, there is much reason to apprehend that they never will have due consideration. And, sir, said Mr. R., may not the applicants connected with seminaries of learning of high order and of strong claims in various parts of this Union reasonably expect that their applications shall receive the due attention of an appropriate committee? And you have, sir, committees on agriculture, manufactures, Indian affairs, and various subjects, not because the constitution has made them objects of special care, but because they are objects of general interest to the country. The education of the youth of this republic is an object of vital importance; and why ought it not to have the fostering care of this Government? Indeed, already some millions of dollars in public lands and in money have been appropriated for the support of common schools and other seminaries of learning. Is it not time to consider whether these benefits have been dispensed with an equal hand, and whether they subserve the purpose of their appropriation. Sir, Massachusetts has made no call upon Congress for aid in support of her seminaries. I trust I

am not actuated by any local considerations. If I know myself, I am actuated by a solicitude to secure the safety and promote the prosperity of this republic. Without further remarks, I submit the resolution, with the hope that it may be adopted.

Mr. ARCHER moved that the resolution lie on the table.

On this motion, Mr. RICHARDSON called for the yeas and nays: they were ordered by the House, and, being taken, stood as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Angel, Archer, Barbour, Barnwell, Barringer, Bell, James Blair, Bockee, Boon, Borst, Brown, Buchanan, Cambreleng, Campbell, Claiborne, Clay, Coke, Conner, Cowles, Craig, Crockett, Crocheron, Daniel, Davenport, W. R. Davis, Desha, De Witt, Draper, Drayton, Dudley, Earle, Ford, Foster, Gaither, Gordon, Green, Gurley, Hall, Halsey, Haynes, Hinds, Hoffman, Howard, Irwin, Irvin, Jarvis, Cave Johnson, Perkins King, Adam King, Lamar, Lea, Lecompte, Lent, Lewis, Loyall, Lumpkin, Lyon, Magee, Marr, Thomas Maxwell, Lewis Maxwell, McCoy, McDuffie, McIntire, Monell, Norton, Nuckolls, Patton, Pettis, Polk, Potter, Powers, Rencher, Roane, Rose, Russel, Sheppard, Shields, Speight, Sprigg, Standefer, Sterigere, Stephens, W. Thompson, Tucker, Verplanck, Wayne, C. P. White, Wickliffe, Williams, Yancey.—94.

NAYS.—Messrs. Anderson, Armstrong, Arnold, Bailey, Bartley, Bates, Baylor, Brodhead, Butman, Cahoon, Chandler, Chilton, Coleman, Condict, Cooper, Coulter, Crane, Crawford, Creighton, Crowninshield, Denny, Dickinson, Doddridge, Duncan, Dwight, Fager, Ellsworth, George Evans, Joshua Evans, Horace Everett, Findlay, Finch, Forward, Fry, Gilmore, Grennell, Hawkins, Hamphill, Hodges, Holland, Hubbard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Richard M. Johnson, Kendall, Kennon, Kincaid, Leavitt, Letcher, Mallary, Martindale, McCrery, Miller, Mitchell, Muhlenberg, Pearce, Pierson, Ramsey, Randolph, Reed, Richardson, Sanford, Scott, Sill, Smith, A. Spencer, Henry R. Storrs, William L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, J. Thomson, Tracy, Vance, Varnum, Vinton, Washington, Weeks, Whittlesey, Edward D. White, Wilson.—86.

So the resolution was ordered to lie on the table.

The SPEAKER laid before the House the following message from the President of the United States:

*To the Senate and*

*House of Representatives of the United States:*

GENTLEMEN: From information received at the Department of State, it is ascertained that, owing to unforeseen circumstances, several of the marshals have been unable to complete the enumeration of the inhabitants of the United States, within the time prescribed by the act of the 23d March, 1830, viz. by the first day of the present month.

As the completion of the fifth census, as respects several of the States of the Union, will have been defeated, unless Congress, to whom the case is submitted, should, by an act of the present session, allow further time for making the returns in question, the expediency is suggested of allowing such an act to pass at as early a day as possible.

ANDREW JACKSON.

WASHINGTON, December 15, 1830.

The message was read, referred to a select committee, and ordered to be printed.

FRIDAY, DECEMBER 17.

Mr. ELLSWORTH, from the Committee on the Judiciary, to which was recommended the bill of the last session to amend and consolidate the acts respecting copyrights, made a report thereon, (for which see Appendix.)

THE POST OFFICE ESTABLISHMENT.

The House resumed the consideration of the bill to establish certain post routes and to discontinue others; and

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all the amendments made to the bill in Committee of the Whole were agreed to.

The question being about to be put on the engrossment of the bill,

Mr. WICKLIFFE moved to insert in the bill the following proviso, to come in at the end of the first section, viz.

"*Provided*, The said post routes be put in operation as soon as the funds of the department will, in the opinion of the Postmaster General, justify the increased expense of the same."

[It is proper to state here, that the Committee of the Whole yesterday struck out a section of the bill which proposed to appropriate \$86,000, to be paid out of the Treasury of the United States, in aid of the funds of the Post Office Department.]

In support of his amendment, Mr. WICKLIFFE went into a brief explanation of the reasons which had induced him to offer it. He did not profess to have any certain knowledge of the amount of money that might be required to carry into effect the numerous post routes contained in the present bill. It might, very possibly, amount to \$200,000 annually. It would be recollected, by those members who had been in Congress two or three years ago, that a bill passed Congress in 1828, designating various post routes, in addition to those previously existing, the whole expense of which fell upon the revenue of the department for the year 1829. Prior to the passage of that bill, the Post Office Department had been in a course of the most successful operation. It sustained itself by the amount of its receipts. But, when the additional burdens imposed by the passage of that bill were thrown on the department, it was found that no corresponding increase of receipts took place; and the difference was so great as to occasion a deficiency of \$25,000 the very first year, and an excess of the expenses above the receipts of the department had continued ever since. According to the report of the Postmaster General, the excess within the last year amounted to \$83,000; yet the House was told by the head of the department, that, if left to itself, the Post Office would be enabled, in a short time, to meet all its expenses, without requiring any aid from the treasury, inasmuch as the amount of receipts was fast gaining upon that of the expenditures. He need not remind gentlemen that loud complaints had lately arisen, both in that House and elsewhere; and committees of investigation were said to have been gotten up, for the purpose of inquiring into the past management and present condition of the Post Office Department. If such were the fact, those committees would find, as the result of their examination, that as much economy, and as prompt a responsibility, existed throughout every part of this Department of Government, as at any former period. Yet, with the knowledge of these clamors immediately before their view, gentlemen were in favor of laying an additional burden, to the tune of \$200,000 a year on the expenses of the Post Office. He asked where the money was to come from. By this bill, said Mr. W., you order the Postmaster General to carry the mail on a great number of new routes. He has no discretion as to the obedience of this order. He is at once obliged to enter into the contracts, whether the department has or has not funds to comply with them. How was he to meet the demand? He expressly tells you that he has not the funds, and you yesterday refused, very properly, in my judgment, to make any appropriation for the purpose. Under these circumstances, I am induced to offer the proposed amendment, with a view to relieve a meritorious officer from such a dilemma, by allowing him the exercise of some discretion in the case. I have no doubt that some of the routes designated by this bill, especially some of those upon the frontier, are required by the state of the country; to these, no doubt, the Postmaster General will first turn his attention; but there are others which I cannot think are called for by the exigencies of

the community, or, at least, not so urgently required, that they must be maintained at the expense of the department, and at a sacrifice of its credit.

Mr. JOHNSON, of Ky., observed, in reply, that, in deciding upon the propriety of passing this or any other similar bill, he put to himself the simple inquiry, whether the interests of his constituents, and of his country, required the additional channels of intelligence which the bill provided. He had not stopped to inquire, nor did he know that it was his duty to inquire, from the worthy gentleman at the head of the Post Office Department, whether he was or was not willing that so many additional post routes should be enacted by law. Neither did he hold himself under any imperative obligation to ascertain whether the funds of the department would or would not enable that officer to execute the will of Congress. He was convinced that the rapidly extending settlements, and still more rapidly multiplying population of the country, required the continuance of the rule, which had hitherto prevailed, of passing a bill of the kind every two years. He could not see the necessity of suspending an operation so salutary to the public, whether its completion might or might not require money from the treasury. He would not stand to inquire whether these routes would cost \$80,000, as had been estimated by the Postmaster General, or \$200,000 as seemed to be imagined by his worthy colleague, [Mr. WICKLIFFE.] He felt well assured that there was no portion of our country that would not rather see that amount, or even a greater, expended in this form, than in almost any other which could be mentioned. If there was any one operation of this Government, which, more than any other, came home to the people, which made itself felt in every portion of the country, and brought a sense of its benefits to every man's door, it surely was the action of the Post Office Department. The operation of a bill like this went to multiply the channels of intercourse and knowledge through the country. It diffused information of every kind, whether commercial, agricultural, mechanical, or social, public or private. Its benefits were widely diffused and immediately felt. No restriction, like that proposed by his friend and colleague in the present amendment, had ever before been inserted in a bill of this kind. Where any thing resembling it had been appended, the bill was annual, and, not like this, biennial. The House had, in some cases, passed a bill for new post routes every year. But it had now got back to the old practice of enacting them biennially. Mr. J. said that he was sorry to differ in opinion from his worthy colleague, but he really could not concur in the present amendment, whatever might be the amount required to carry the bill into effect; he could not bring himself to withhold so great an accommodation from the citizens, for the sake of what it might cost. The House was not called on to make any appropriation. The appropriating clause had been stricken from the bill; and, whatever might be the fears of some gentlemen, he would venture to predict, that, before the period of the next September and October contracts, the department would find itself in circumstances to meet the expenses which would be incurred by the provisions of the bill, without applying to the treasury. He would further predict, that, if a statement should hereafter be made to this House, that this bill had caused an expense of fifty or a hundred thousand dollars, which the department would not meet, there would be a unanimous vote in both Houses to give whatever amount might be found necessary. No blame could, at all events, fall upon the Postmaster General. Will the people blame him? No, sir. Can clamor reach him? No, sir; all the clamor against the Post Office Department, raised for mere party purposes, when the facts of the case come to be investigated, prove like the idle wind which passes by this magnificent capitol. Whether that clamor existed in the House or out of it, for himself he had but one simple

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rule: he brought every consideration down to the simple test of his duty. He never listened, for one moment, to the clamors which had been raised against his worthy friend the Postmaster General, any more than if the silence of despotism reigned around him; nor would the people regard it more than he, or be so unjust as to blame the head of a department for what was the act of Congress alone. Mr. J. said that a large portion of the post routes in this bill he knew to be indispensably necessary to the comfort and accommodation of great districts of the country. Why, then, limit the bill? He differed totally from his very worthy colleague in this matter; and, however accountable he held himself to his constituents, he was not afraid to avow, either in that House or elsewhere, that, so long as they had a dollar to appropriate out of all the millions they had contributed for the welfare of our common country, he should not be afraid to appropriate it for an object so essential to their comfort and happiness. This he conceived to be the right way to treat the people. They put millions into the treasury, and they would never complain that a part of their own treasure was taken out to promote their own best good.

Mr. WICKLIFFE rejoined. He was well acquainted with the boldness and independence of his colleague in voting for any appropriation of money which he considered to be demanded by the public good. He only regretted that, if he considered an appropriation in this case necessary and proper, he had not retained the clause for that purpose as it originally stood in the bill, but had himself moved to have it stricken out: for Mr. W. felt fully convinced that if the bill were passed in its present form, the department would have at once to come to the treasury. To this he for one was utterly opposed. He considered that the duty he owed to himself, and to his constituents, required him to keep the expenses of the Post Office Department within the amount of its receipts. With that view he was desirous to repose in the officer at its head such a discretion as might relieve him from the necessity of applying to the treasury, however abundant its contents might be, (though he did not believe they would be so very abundant either.) He should not urge any thing further in support of its amendments, but would content himself with requesting that the vote upon it might be taken by yeas and nays.

The yeas and nays were ordered by the House.

Mr. JOHNSON rose to correct a misapprehension of his colleague, as to what he had said. He had never asserted that any appropriation from the treasury would be required to carry this bill into effect, but had only expressed his willingness to make such an appropriation should it be required.

Mr. BELL, of Tennessee, said, he hoped the House would not act on a subject of this kind without due deliberation. By the acknowledgment of the honorable and very generous chairman of the Post Office committee, [Mr. JOHNSON,] the policy heretofore invariably pursued in relation to the Post Office is now to be changed. As a tax, the contributors to this branch of the Government have had that characteristic which renders any tax the most popular, viz. its being paid by those who personally enjoy the beneficial consequences. The department, said Mr. B., has heretofore been managed with very great care, and has been very popular; the most so, perhaps, of any of the branches of the Government; great harmony also has generally prevailed between Congress and the head of that department. One great reason of the popularity, as well as the general prosperity it has enjoyed, is to be found in the fact, that it has been thus far sustained by its own resources; the revenue from postage has paid the expenses of transporting the mail. But if the extension and multiplication of mail routes is to be pursued without regard to the receipts of the department, one of the most salutary checks in the administration of its affairs

will have been removed. He hoped the House would consider maturely before they entrusted this branch of the Government with a discretionary power to demand appropriations from the treasury; and, if it is further to have the discretion of applying the appropriations when obtained, its concerns could not fail to fall into great disorder: a looser system of administration would be adopted; the tax would lose its equitable character, and soon cease to be popular. He had urged these considerations because the honorable chairman of the committee had avowed it as his plan to call for appropriations where the funds of the department should fall short.

As to the interest of the country in this multitude of new routes—(he did not know how many were proposed by the bill—a gentleman near him said seven hundred)—he could only say that heretofore the Post Office committee in the House had always moved in concert with the head of the department; and it was reasonable and fit that they should do so. It was not to be expected that that committee could possess the same extent and minute accuracy of knowledge which belonged to the department—no committee during its term of service here could obtain such a mass of geographical information. The present bill, however, had, it seemed, been got up without any consultation with the department. Here were seven hundred new post routes proposed at once.

[Mr. VANCE here interposed to explain. He feared he had unintentionally misled the gentleman—the bill contained not seven, but about three hundred routes.]

Be it so, said Mr. BELL, the objection is the same in principle, if there are but one hundred. No committee can judge of their utility with the same degree of safety as the Post Office Department can. Yet the honorable chairman declares that he did not consider it his duty to consult the Postmaster General in each of these three hundred routes. Any committee, charged with a duty of this kind, is, from the nature of the case, liable to great impositions. He did not mean to say that honorable members of this House would wilfully and intentionally deceive or impose upon any committee; but they might, in effect, produce a very false impression by their representations, which, however sincere, were chiefly based on a narrow circle of topographical information. Each member looked mainly at his own immediate neighborhood, without consulting the general interest of his region of the Union, and without an accurate knowledge, perhaps, of the routes already existing. He meant not the slightest imputation on the patience, diligence, or fidelity of the committee, or on the motives or conduct of any member of the House; but it was obvious, that, from the necessity of the case, most of these routes could receive from a committee but a comparatively slight investigation.

There was another point he considered important: supposing that the Post Office Department had hitherto sustained itself out of its revenues, the House could not be sure that, in departing from previous policy, they would be sustained by public opinion. The vote of yesterday to strike out the appropriation at first introduced into the bill, seemed to indicate that this House had not yet made up its mind to enter upon a new course of policy in relation to this department. The consequence of too great a multiplication of mail routes was, that the department had to narrow down its contracts where the mail was most wanted. The whole country received a slight accommodation, which was not graduated by the comparative wants of its different parts, and many of the routes became scarce worth sustaining.

No one could think more highly of the usefulness of a wide-spread dissemination of intelligence than he did; but might not greater facilities be granted in routes already existing, in preference to the opening of new routes? Would it not conduce more to a general diffusion of knowledge, if the same facilities of circulating information

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which are now confined to members of Congress should be extended to members of the State Legislatures in the several States? It had often struck him, said Mr. B., that if they were the real and sincere friends to a general diffusion of intelligence, which might be inferred from their zeal for multiplying mail routes, would they not more effectually promote that object by some such arrangement as he had alluded to? The members of the State Legislatures were more spread among the people, and lived more among them, and were consequently the best acquainted with their wants and wishes; an arrangement of this character would overbalance a thousand of these small routes, while it added less to the expenditure of the department. Mr. B. concluded by saying that he had esteemed it his duty to submit these views on the general subject, and expressing his hope that the House would act with great coolness and caution in so important a department of legislation.

Mr. BUCHANAN, of Pennsylvania, disclaimed any intention of entering into a discussion of the general subject, but would offer one or two words in explanation of the reasons which would induce him to vote against the amendment. Waiving the question whether this bill ought to pass or not, he objected to the amendment of the gentleman from Kentucky, [Mr. WICKLIFFE,] because it vested the Postmaster General with an absolute discretion in the application of the funds of his department, and enabled him to decide without appeal among three hundred conflicting claims for the new mail routes proposed in the bill. This confided to a single officer a weight of responsibility which pertained to Congress alone. Mr. B. said he entertained both respect and friendship for the distinguished officer at the head of the General Post Office; and as his friend, he felt unwilling to impose upon him so onerous a burden. Exercise this discretion how he might, he was sure to give great offence. Each applicant for favor would esteem his own route best entitled to preference, and there would be three or four hundred of these applicants struggling with each other for a boon which, perhaps, could be extended to but three or four individuals; the rest were sure to feel offended. What, asked Mr. B., is the duty of Congress in this matter? To put only such routes into the law as the resources of the department will enable it to meet; and between the various claims for such admission, Congress should itself decide, and not devolve its own responsibility on the head of any individual. In both these views of the subject, he felt opposed to the amendment. He should rather appropriate at once the sums that might be thought necessary, than entrust such a responsibility as was proposed by the gentleman from Kentucky to the head of any department.

Mr. JOHNSON again addressed the House. He considered himself very unfortunate in not having been understood—he knew with certainty that his friends would not wilfully misunderstand him—he must, therefore, attribute the mistake to some defect on his own part. He had not said, as seemed to be supposed, that the Post Office committee had acted in total independence of the Post Office Department, in judging of the necessity of the various routes proposed to them; but that they had acted without holding themselves obliged to consult the department, whether routes should be adopted that would require appropriations from the treasury. On some of the routes in this bill, the committee had obtained the details from the department. Whenever they had rejected a route asked for, the rejection was recorded, together with the reasons for it. But, supposing the committee had acted in entire independence of the department, who, he asked, could be better qualified to give the committee all the information it needed to enlighten its judgment than the members of this House? Men who come from the country where the route must run? Men who reside with the people, and are sent

here to express their wants and wishes? If a committee of this House are incapable of deciding on a post route, without first obtaining the approbation of the Post Office Department, (except so far as mere courtesy is concerned,) then that clause of the constitution which gives to Congress the power to establish post offices and post roads, had better have been so worded as to confide that power to the Executive branch of the Government. Mr. J. said he was truly very unfortunate in being thus exposed to the buffets of his friends, for he had been opposed by none but those who were his friends, both personal and political. He had expressed his opinion—it was a candid one—and he was sorry he could not withdraw it, or recall any thing he had said: nor could he consider the force of his argument lessened by what he had heard. One word to the worthy gentleman before him, [Mr. BELL,] (than whom he knew none more worthy, or for whom he felt a truer respect;) that gentleman was wrong in supposing him to have said that any money would in this case certainly have to be appropriated. It would be a delicate thing to make such a declaration beforehand; but he had declared that if, when the time arrived, an appropriation should prove necessary, he was prepared to vote for it. He again declared, that, rather than deprive the country of such a benefit, he would give the money necessary to obtain it. His very worthy friend from Pennsylvania [Mr. BUCHANAN] had expressed a wish that the Post Office committee had ascertained the precise amount requisite to carry the bill into effect; that gentleman was so much and so constantly engaged in other labors of a very different kind—[Mr. B. is chairman of the Judiciary committee]—that he had overlooked the fact that the department had ascertained the amount referred to, and had reported it to the House at \$82,000. This was the amount originally inserted in the bill, and which the House had yesterday resolved to strike out. This amount was not asked by the department: the department asked for no appropriation; but this was the answer given by the department to the inquiry of the Post Office committee, as to the amount required to establish all the new routes in the present bill. For himself, Mr. J. said, he would rather let the bill sleep on the table, than adopt the amendment proposed by his colleague. That amendment appended, and the bill would amount to nothing; nay, it would be worse than nothing, for it would confer a legislative discretion on the head of the Post Office Department. His worthy friend [Mr. BELL] had said that it appeared the policy of the Government, in relation to the Post Office, was about to be changed. He said not. It would not be changed at all, until an appropriation should actually have been made. On the contrary, should this bill be laid asleep, then the policy of the Government would indeed be changed. Then this House would, in effect, say to the people of the United States, “while your own President, the man of your choice, the man whom you elected at the polls, fills the chair, you are to enjoy less privileges than you ever had before; you are to be indulged with less mail accommodation, in proportion, than under any former administration.” Sir, said Mr. J., I am not willing to say this to the people. I do not, indeed, connect my support of this bill with this or with that particular administration; but I cannot consent that we should now, for the first time, begin to withhold privileges from the people. I again repeat, that I consider myself unfortunate in being opposed by my friends, and by such friends. I am, I declare, almost in doubt whether I must not be wrong, seeing I differ from them; still, however, I do not so far doubt as to change my opinion: and if this amendment shall be adopted, I shall immediately move to lay the bill upon the table.

Mr. HOFFMAN, of New York, expressed his regret that the gentleman at the head of the Post Office committee found it necessary to avow that he felt indifferent



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whether this bill would or would not charge the Government beyond the income of the Post Office Department. I had thought that it was an acknowledged settled principle in reference to the management of that department, that its revenues should not be exceeded by its expenditure. The idea, either of making the Post Office a source of revenue, or of suffering it to be a burden on the treasury, he understood to be alike abandoned. He had been under the impression that the committee, when they reported this bill, believed that the revenues of the department would be sufficient to meet the expense of all these routes. In this, it appeared, he was mistaken. Mr. H. said he should not vote for the amendment of the gentleman from Kentucky, [Mr. WICKLIFFE,] although he felt very sensibly the force of the argument of the gentleman from Pennsylvania, [Mr. BUCHANAN.] He concurred with that gentleman in the opinion that it is the House, and not the Postmaster General, who should fix upon the routes to be carried into effect; but it was perhaps too late to hope for this now. It would require a revision of the whole bill, and, to be properly done, would also demand a knowledge of the relative expense of each route. But if the gentleman from Kentucky [Mr. JOHNSON] was right in his belief, that it would probably call for no appropriation to carry the bill into effect, then the objection of the gentleman from Pennsylvania of course fell to the ground. If all could be accomplished, then there would no difficulty occur from having to select from among them. Mr. H. said he preferred the insertion of the amendment to the danger of embarrassing the revenue by calls for appropriations hereafter. For, although the gentleman from Kentucky thinks that an appropriation will be readily voted, if called for, to make up any deficiency caused by the passage of this bill, yet the Committee of the Whole, and the House, with a knowledge of the increasing deficit of the department, had voted to strike out the appropriation from this bill. If the committee abandoned their proposition now, what reason was there to suppose that the House would willingly assent to it hereafter? Under all the circumstances, Mr. H. said he thought it would be better to pass the bill with the amendment than without it.

Mr. WHITTLESEY, of Ohio, expressed his regret that the gentlemen from Kentucky and Tennessee [Messrs. WICKLIFFE and BELL] had not looked into the documents submitted to Congress at the opening of the session, before they had taken the ground they had now done, in offering and in supporting the amendment. Had they done this, they would have found abundant evidence to show that a bill like that now under discussion might be suffered to pass, without the least apprehension of a deficiency of funds to carry it into effect. Had the language of those documents been referred to, the whole of the present discussion might have been avoided, and the bill been by this time engrossed for its third reading. The documents would show, that when General Jackson came into office, the Post Office Department had the sum of two hundred and thirty thousand dollars at its disposal. In his first communication to Congress, he informed that body that great improvements had taken place in the administration of this as well as other branches of the Government, and that large savings had been effected in its funds, which had been formerly squandered away, owing to the irregularity of the public accounts. He told Congress, that at that time the Post Office Department was in a highly prosperous condition. Now, there had not a single new post route been authorized since 1827. In that year, it was true, the expenses of the department had been increased to a certain extent, but the expense had long since been defrayed. Under these circumstances, could the gentleman who introduced the amendment, or the gentleman who had supported it, entertain a reasonable doubt of the ability of the Post Office Department to sustain the

increased expenditure proposed in this bill? Surely not. Had it not been echoed and re-echoed, as well by the President and the head of the department as by all the papers of a certain description, from one end of the Union to the other, that the Post Office was in a high state of prosperity? Yet, what did the House now see and hear? Gentlemen, professedly the friends of the administration, hesitating to pass the ordinary biennial post office bill, lest it should compel the department to make a draught upon the treasury! Such a fear must be idle indeed. Surely this House was raising a clamor against the department, which would meet with no credit out of that House. The House had been informed by the head of the department, in his public official communication, that a saving had been effected, in making contracts this year, of seventy-two thousand dollars. Yet gentlemen had branded that branch of Government by the unfounded supposition that its expenses had run beyond its income to the amount of eighty-two thousand dollars. Could this be true while a saving had been effected to nearly that whole amount? The thing was incredible. One gentleman had even supposed that not less than two hundred thousand dollars would be needed to carry into effect this bill. Yet the head of the department asked no more than eighty-six thousand dollars as sufficient to cover all these routes. The last bill of this kind burdened the department only to the amount of twenty thousand dollars. One was passed in 1826 establishing various new routes, and another bill in the following year. The latter, it is true, was passed against the opinion of the Postmaster General, who desired that the routes in the previous bill should be suffered first to go into operation before any others should be added; but the House thought otherwise, and passed the bill. But, as he had observed already, the whole expense incurred by these bills had been long since defrayed, and the department had since been officially declared to be in a flourishing condition. The gentleman from Kentucky had alluded to certain proceedings in the Senate. Such allusions, he thought, were not in order.

[The CHAIR interposed, and observed that Mr. WICKLIFFE had made no allusion that he heard to the proceedings of the Senate. Had he done so, it would undoubtedly have been out of order, and the Chair would have interposed to stop any remarks of that kind.]

Mr. WHITTLESEY said he thought the gentleman had alluded to committees of inquiry. Mr. WICKLIFFE offered to explain, but Mr. WHITTLESEY proceeded.]

He admitted that the routes ordered by the bill of 1827 did not go into effect till January, 1829. One quarter was due in April, and the present Postmaster General was not concerned in the result until July, 1829. At that time the department had, by its own showing, upwards of two hundred thousand dollars at its disposal. On the whole, Mr. W. concluded it to be utterly impossible that with this surplus then, and its very rigid and economical mode of conducting business since, the Post Office Department should not be in circumstances to meet the provisions of the present bill. Did he wish to injure the credit of that department, he could not employ language better calculated to effect that object, than that now held by the gentlemen who advocated the amendment: what was more likely to excite an alarm in the minds of the people, than that the affairs of the department had not been properly conducted? If gentlemen, after all that had been said of the flourishing state of the Post Office, would nevertheless admit that it was unable to add these routes without calling on the treasury, the conclusion was inevitable that there must exist very great improvidence in its management.

Mr. STORRS, of New York, said that he had come to a different conclusion from his friend from Ohio, [Mr. WHITTLESEY,] and thought it best, on the whole, to vote for the amendment of the gentleman from Kentucky.

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He took it for granted that, if the bill was passed, it would be the duty of the Postmaster General to put the new routes into operation, and gentlemen had said that they amounted to a hundred and fifty or two hundred. Now, said Mr. S., I do not think it quite fair towards that department, in the present condition of its finances, to impose this new burden upon its resources. It has been said, in the course of this debate, that no new post routes have been put into operation since 1828. Yet, on looking at the report of the Postmaster General, at the present session, the debt of the department appears to be increasing. It is stated in the report, that the expenditure of 1827-8 was \$1,623,893; of 1828-9, \$1,782,132 57; of 1829-30, \$1,932,707 06; so that the expenditure of the last year exceeds that of 1828-9 by the sum of more than one hundred and fifty thousand dollars, and about three hundred thousand dollars more than in 1827-8. He did not mean to find fault with it. Though there may have been no new routes to cause this increase, it may perhaps be accounted for by the increased facilities afforded on the old routes, or the calls on the department for old claims or allowances, or in many other ways. It would not be right to disapprove of it without accurate and full information as to the causes of it, as it might, perhaps, be fully and satisfactorily explained. He did not mean to give any opinion about it, and had only alluded to it to show that, even under this increased expenditure, the report further showed that the excess of expenditure over the receipts had pretty regularly increased too since 1827. This excess is stated in the same report to have been, in 1827-8, \$25,015 85; 1828-9, \$74,714 15; 1829-30, \$92,124 86. The postages have increased from the years 1827-8, to the last year, more than two hundred and twenty thousand dollars. Now, it cannot be sound policy to burden that department with the new expenditure to be created by this bill, before the old debt is paid off, or lessened; or at least put on the decrease, instead of increasing yearly. It is very true, as the Postmaster General very justly observes, that the yearly ratio of increase of this excess for the last two years does not keep pace with the yearly increase of receipts. But the amount of excess is, in fact, increasing yearly; and it is that circumstance to which he, Mr. S., wished to call the attention of the House. The amendment of the gentleman from Kentucky will prevent this excess from increasing any more, at least through the legislation of Congress. He thought it would be time enough to think of putting more burdens upon the post office fund, when this excess of expenditure began to diminish. The old routes would undoubtedly be able to maintain themselves in two or three years more, if the future increase of postages shall equal the increase of the last two years. In the mean time, he thought it unwise to throw new obstacles in the way of the present increasing prosperity of the department. He should vote for the amendment of the gentleman from Kentucky, because he thought it would have a tendency to relieve the department from the very unpleasant necessity of overloading its resources. He considered it his duty, as a member of the House, to contribute his aid to this desirable result. It was not as a friend of the Postmaster General, which some gentlemen, during the course of the debate, had avowed themselves on this floor to be. He had no particular friendship for that officer, nor any enmity towards him. Indeed, he knew of no friends in legislation. It was not strictly a parliamentary word. The public interest requires that Congress should not, in the present condition of the department, do any thing to embarrass the Postmaster General in his laudable efforts to keep the expenditure of his office within its income; and Mr. S. said that it was only because the public interest did require it, that he should support the amendment. The policy of Congress had been to make that department support itself, and it was

right that those who reaped its advantages should be at the expense of maintaining it. Rather than add to its expedition in its condition, he would be willing to vote a gross sum at once from the treasury, to pay off the eighty thousand dollars excess of the last year, put the department fairly afloat, and let the Postmaster General begin the next year with a new account.

Mr. MAGEE said he did not rise for the purpose of taking a part in this debate, but merely to correct the great mistakes which seemed to prevail in some parts of the House, as to an enormous increase in the expenses of the Post Office Department. The bill of 1827, for establishing additional routes, did not take effect until 1829. The routes then ordered did not go into operation until January, 1829; and the first payment did not come on until May of that year. The sum of one hundred and twenty-nine thousand dollars, therefore, expended, was to be deducted from the formidable amount stated by his colleague. Mr. M. said he had mentioned these facts for the information of his colleague, who professed such entire ignorance as to the cause of the "enormous increase," as well as that of the House.

Mr. JOHNSON said that, with a view to relieve gentlemen from the great fears they professed, lest the nation should think there had been a gross expenditure in the Post Office Department, he had intended to advert to the facts just stated by the gentleman from New York. He could also inform the gentleman, that since the adoption of the federal constitution, and even before that constitution had any existence, the Postmaster General had possessed absolute power to increase, at his own discretion, the frequency of the mails, from one day in a week to six—ay, and to seven, too, if he thought it most expedient. He could also, at pleasure, increase the speed of the mails; nor were the public journals silent as to the increase which had actually taken place, both in their frequency and speed. The Postmaster could multiply their passage from three to six times every week of the year, and even to seven times, thank God, when it was necessary. Yet his friend over the way, without explaining any of the facts which he had stated from the documents, expresses his utter ignorance as to the causes which have led to the result he refers to; a gentleman, too, of his distinction, who, I thought, added Mr. J., knows almost every thing. For himself, Mr. J. said he could see no necessity whatever for involving this thing in party considerations. He never had, and with God's help he never would imply censure by his language on that floor, where he was unwilling directly to express it. His friend, too, from Ohio, [Mr. WHITTLESEY,] had thought it necessary to allude to some imputation made under the present administration, to prodigality under the past. He could not for his life see the necessity of alluding to this, even had the fact been so; but it was not so. He had never seen a word from the present head of the Post Office Department reflecting, in the slightest degree, on the worthy and meritorious gentleman who had been his predecessor, and he should be glad—no, he recalled the word, he should not be glad, for the matter did not pertain to the subject before the House—if his friend from Ohio would point out the spot, and would give the House the chapter and verse where any such imputation was expressed. For himself, he esteemed and honored the late Postmaster General, as he esteemed and honored the present officer. He knew, indeed, that some such thing as that alluded to by the gentleman from Ohio, had been afloat in the public journals; he regretted that they were so abusive on both sides. He wished it were otherwise; yet, no matter how abusive it might be, the public press was the great palladium of our liberties; the present Postmaster, he was perfectly sure, had never intended to cast the least imputation on his predecessor—nor had he done so—he had indeed stated that new arrangements

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had been made in administering the affairs of the department. It had been divided into different bureaus, and some reforms had been introduced in its expenditures, but the statement of this implied no censure on the gentleman who had gone before him.

Mr. J. said he should not reflect upon his friend from New York, who had professed so much ignorance as to the details of the Post Office Department. He hoped the gentleman had been sincere in all that he advanced; as to himself, he was but a plebeian in rank, and a plebeian in language. He felt that he had been unfortunate on the present occasion. His language certainly had not been well understood, for a third friend [Mr. HOFFMAN] had seemed to conceive that he had uttered a sort of bravado, intimating that he cared nothing to what extent he scattered the public money. Such a sentiment was far from his mind. What he had said was, that when such a valuable accommodation was to be secured to the people, he would not stand to inquire whether it would cost eighty thousand or two hundred thousand dollars. The good obtained far overbalanced the money it might cost. He hoped, after these explanations, that it would not be necessary for him again to rise during the present debate.

Mr. DANIEL was in favor of the amendment. He should not be prevented from voting for it by the consideration, which appeared to have weight with some gentlemen, that it would impose too great responsibility on the Postmaster General. That officer, he had no doubt, was willing to take and bear all kinds of responsibility. He has the power now to discontinue any post road if it is not beneficial to the community. He has the power also of increasing mail accommodation upon every route; and there will not be more discretion reposed in him by this amendment than there is by the general laws on the subject of the Post Office Department—not a particle more. What is intended by the amendment? There are some routes among the number contained in the bill, which would defray their own expense, and ought to be put in operation: there were others, probably, which ought not. If the gentleman from Ohio had looked at all parts of the Postmaster General's report with the same vigilance as he had at one part, he would have discovered what had become of the \$230,000 in hand when the present Postmaster General came into office. The new contracts under the act of 1827 had disposed of nearly the whole of it. And what more did the gentleman overlook in the report? Why, that since that officer had taken charge of the department, the postage has been increased to the amount of \$140,000, and increased facilities of mail transportation to a large amount have been extended to the people: and the department was not yet insolvent, as the gentleman was very ready to insinuate; for there still remained in hand a hundred and forty odd thousand dollars, after providing for the deficit of \$82,000: but it was indispensable to the proper conduct of the department, that it should at all times have a surplus of funds. The gentleman from New York, whose candor Mr. D. said he at all times admitted, and particularly on the present occasion, had gone on and said that every man should vote or speak in this House without any regard to his personal predilections, and should always labor to lay before his constituents the truth in regard to every department of the Government. Any attempt to even insinuate that any member of this House would ever attempt to deceive his constituents by a garbled statement of the contents of public documents, would be a gross disrespect to this body. So that when any member of this House tells a part of the truth, and not the whole of it, I always suppose that it is a mistake: for no member could be suspected of taking a scrap of a document here and a scrap there, and putting them together, for the purpose of deceiving his constituents. I will not believe it: if I were disposed to believe it, I would not—at least, I would not say so here. Now, sir,

as the gentleman desires information on this subject, I will endeavor to inform him what has become of the \$309,000 which he speaks of. I find in the report of the Postmaster General, which accompanied the President's late message, the following:

"In the several States, improvements in mail facilities have been loudly called for; and in many instances the growing population and extending settlements of the country have absolutely required them. In making such improvements, care has been taken so to extend them as to give the greatest possible accommodation at the least expense, and in such a manner as would be most likely to increase the revenue. It is in part owing to these improvements that the amount of revenue is so much augmented, though they have, at the same time, considerably increased the expenditures of the department.

Between the 1st of July, 1829, and the 1st of July, 1830, the transportation of the mail was increased in stages equal to

	745,767 miles a year
On horseback and in sulkies.	67,104 do.

Making an annual increase of transportation, equal to - - - 812,871 miles a year beyond the amount of any former period."

From this the House would at once see the reason of the increased expenditure of that department. But, while on this subject, he would make one or two observations. In the course of last summer it was said in many places that the Post Office Department was insolvent, and that it had been made so by the present incumbent, and that he had asked an appropriation of money from the treasury to sustain the department. It was published in many of the papers, and believed by a great portion of the people that this was the fact. This statement caused great dissatisfaction; and if the fact had been as stated, there would have been a general disapproval of that department. But it was not true. The Postmaster General did not ask for an appropriation, but the Committee on the Post Office and Post Roads called upon him to know how much it would take to put in operation a certain number of new routes, and he answered that it would take \$86,000. No sooner was this done, than a clamor was spread abroad that the department was insolvent. Sir, if this bill passes without the proposed amendment, and is put into operation—and it will assuredly be the duty of the department to put it in operation—it will require an additional expenditure of a sum of \$80,000 at the least, and perhaps much more; for, since the last session, when the probable expense of carrying it into effect had been reported, every member who wanted a new post route had gone and stuck it into the bill, which, instead of one hundred and fifty new routes, now contained three hundred. One route had been put into the bill, on which, he was told, in all probability there would not one letter pass in two weeks. No doubt, that, in reference to that route, the committee had been differently informed, or they would not have admitted it into the bill. Looking over the bill, he found also in one case two routes over one road—that is, from the same point to the same point: one of these, however, he believed, had been struck out. The establishment of these unnecessary routes may serve to give post offices to individuals who want the power to frank letters; and some man on each of these routes, who has a spare horse and a little boy to ride it, may find employment for both: but, sir, it does seem to me, that the Postmaster General would understand the routes infinitely better than the Post Office committee can possibly understand them. He is better acquainted with the existing routes, and with the bearing of new routes in relation to them, so as to prevent the routes from running into one another, &c. Members of this House may understand very well the roads within their respective districts; but whether the conversion of them into post roads would

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be generally beneficial, they are not so good or disinterested judges. One member's constituents comes to him, and tells him, "I want a mail route by my house." He is an old friend, and has supported the member at all times, through evil and through good report, and the member cannot refuse it to him. But, if the discretion was left to the Postmaster General, as proposed by the amendment, those routes which were likely to be of general use, would be put in operation, while others of a different description would not. Mr. D. said he trusted, therefore, the amendment would be adopted. Pass this bill, said he, and what will be the result? Why, although the appropriation has been struck out of this bill, you involve the department in an increased annual expense of a hundred and fifty or two hundred thousand dollars. The Postmaster General will be compelled to require an appropriation from the treasury to carry on his department. That is not calculated upon by the people. They will not approve it. They are willing that the income of the establishment shall be expended for its support, but they are not willing that the treasury shall be called upon to furnish the means of extending it. And, sir, we ought to pause, and stop until the funds of the department shall be in a state to allow us to go on adding to its expenditure, by establishing hundreds of new routes at a time.

[After Mr. D. closed his remarks, the House adjourned without taking the question, either on the bill or the amendment.]

MONDAY, DECEMBER 20.

The House assembled at twelve o'clock.

JUDGE PECK.

Mr. HOFFMAN begged permission to trespass for a moment upon the time of the House. It would be recollected that to-day was fixed upon for proceeding in the trial of Judge Peck, in the case of that individual's impeachment before the Senate of the United States. It was, in his opinion, advisable that the House should attend, even if only in the first instance to prosecute the case before the Senate; and, with this view, he submitted the following resolution:

*Resolved*, That this House will, from time to time, resolve itself into a Committee of the Whole to attend in the chamber of the Senate on the trial of the impeachment against James H. Peck, a judge of the United States' district court for the district of Missouri.

Mr. HOFFMAN said, in support of his resolution, that it was not dictated by any spirit of idle curiosity to witness the proceedings in the Senate chamber on so solemn and interesting an occasion, but from an anxiety to ascertain the principles upon which such an important matter was to be conducted, in order that the presence of the House, before the highest tribunal in the Union, might give effect to a case which would be a subject of discussion throughout the country, and which would form part of our public history. The trial of an impeachment was a proceeding of a grave nature; it was never instituted but for the purpose of punishing those offences which the ordinary laws could not reach; and as such, it was, perhaps, better that it should be attended with all the solemnity possible; besides, such would be the interest manifested to witness its progress, that it was doubtful to him whether they should be able to obtain a quorum in that House during the time that the proceedings upon it were carrying on in the Senate.

Mr. DWIGHT said he concurred with the gentleman from New York [Mr. HOFFMAN] in the propriety of the House attending during the trial; but this resolution seemed to imply the necessity of its continual attendance. He was desirous the House should meet at eleven o'clock, in order to give the House one hour for their own business.

After some remarks from Messrs. WICKLIFFE and

BUCHANAN, who stated that the Senate were waiting for the appearance of the managers, and the proposition of an amendment to the resolution by Mr. DWIGHT, which were subsequently negatived,

Mr. POLK moved to amend the resolution, by inserting "this day," instead of "from time to time;" and this was accepted by the mover as a modification, as this would give the House an opportunity of discussing the question of its continual attendance, to-morrow.

Mr. PETTIS objected to the attendance of the House in the Senate chamber, which he conceived to be entirely unnecessary. There were two or three hundred bills already on their table, which it would, he thought, be better to dispose of, with the utmost promptitude. As to not having a quorum present for the despatch of the public business, should such be the case, it would be easy to try the effect of a call of the House. Upon the question of the adoption of the resolution, he should call for the yeas and nays.

Mr. DODDRIDGE moved to lay the resolution upon the table. Negatived.

The resolution of Mr. HOFFMAN was then carried; and, On motion of Mr. WICKLIFFE, the House resolved itself into a Committee of the Whole, Mr. DRAYTON in the chair, and repaired in procession, accompanied by their officers, to the Senate chamber, where, having been seated, the impeachment was proceeded in.

The Representatives, after some time, having returned to their own hall, in like order, and

Mr. DRAYTON having reported, on motion of

Mr. WHITTLESEY, it was resolved, that when the House adjourned, it should adjourn till eleven o'clock to-morrow.

The House then adjourned.

TUESDAY, DECEMBER 21.

SILK MANUFACTURE.

Mr. SPENCER, from the Committee on Agriculture, to which was referred the letter of P. S. Duponceau, presenting to the House a flag of American silk and manufacture, made the following report:

"The Committee on Agriculture, to which was referred the letter of Peter S. Duponceau, to the Speaker of the House, announcing his presentation to the House of a silken flag, bearing the colors of the United States, made of American silk, reeled from cocoons, and prepared and woven by John D'Homergue, silk manufacturer, the entire process in the manufacture of the same having been performed in the city of Philadelphia, report:

"That they consider this specimen of American industry, applied for the first time to the production of a fabric in such general use in the United States, in the purchase of which, in foreign countries, several millions of dollars are annually drawn from this country, as highly auspicious to the agriculture and arts of the United States; and that Mr. Duponceau, for his patriotic exertions in promoting the culture of silk, and in his efforts to excite the attention of the people of the United States to that important branch of industry, deserves the commendation of his country. The committee have received a communication from Mr. Duponceau, detailing various important facts and remarks in reference to the bill entitled 'An act for promoting the growth and manufacture of silk,' which they have appended to this report for the information of the House; and the committee report a resolution, and recommend its adoption by the House.

"*Resolved*, That the flag, bearing the colors of the United States, presented to this House by Peter S. Duponceau, of Philadelphia, made of American silk, and prepared and woven by John D'Homergue, silk manufacturer in the city of Philadelphia, be accepted by this House, and that it be displayed, under the direction of

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the Speaker, in some conspicuous part of the hall of sittings of this House."

Mr. ALEXANDER moved that the report and letter therein referred to, lie on the table, and be printed.

Mr. WHITTLESEY called for a division of the question; and the question being put to lay the report, &c. on the table, it was decided in the negative—yeas 45, nays 74.

The question was then put on the adoption of the resolution submitted by the committee, and it was determined in the affirmative.

Subsequently, the report and letters were ordered to be printed.

#### THE IMPEACHMENT.

Mr. STORRS, of New York, rose to ask, for his own information, whether it was expected that the managers, in the absence of the House, were to conduct the trial of the impeachment against Judge Peck. The hour for the trial had now arrived, and it was necessary for the House to take some order on the subject.

Mr. HOFFMAN hoped that the same course would be pursued by the House to-day, as was taken by it yesterday; and he accordingly submitted, for the consideration of the House, the same resolution that was yesterday adopted by the House.

The resolution was then read, and agreed to.

On motion of Mr. STRONG, the House agreed to meet to-morrow at eleven o'clock.

On motion of Mr. HOFFMAN, the House then resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair; and,

On motion of Mr. TAYLOR, the House, as a committee, proceeded to the Senate chamber, further to attend the trial of the impeachment against Judge Peck; and, after about two hours and a half spent therein, the committee returned to the hall, and the Speaker resumed the chair.

Mr. CAMBRELENG, from the said Committee of the Whole, reported that the committee had, according to order, again attended the trial of the said impeachment in the Senate, and that the court had adjourned till to-morrow at twelve o'clock.

And thereupon the House adjourned.

WEDNESDAY, DECEMBER 22.

#### ELECTION OF PRESIDENT AND VICE PRESIDENT.

Mr. McDUFFIE, from the select committee on so much of the President's message as relates to an amendment of the constitution respecting the election of President and Vice President of the United States, reported, in part, the following joint resolution; which was read, and laid on the table:

*Resolved, &c.,* That the following amendment of the constitution of the United States be proposed to the several States, to be valid, to all intents and purposes, as part of said constitution, when ratified by the Legislatures of three-fourths of the said States, viz.

No person shall be hereafter eligible to the office of President of the United States, who shall have been previously elected to the said office, and who shall have accepted the same, or exercised the powers thereof.

#### THE IMPEACHMENT.

Mr. DWIGHT submitted a resolution, in substance, requiring the House to meet each day at eleven o'clock during the trial of the impeachment of Judge Peck; and that at twelve o'clock it would resolve itself into a Committee of the Whole, and proceed to the Senate for the purpose of attending the trial.

Mr. WHITE, of New York, called for the yeas and nays on the adoption of the resolution, and they were ordered by the House.

Mr. PETTIS opposed the resolution. He said that a resolution was offered at the last session of the House to attend on the trial, but the House only attended one day. When the gentleman from New York [Mr. HOFFMAN] offered his resolution on Monday, there was no time for discussion. Yesterday, the House pursued the same course as on Monday. He hoped the resolution would be rejected, if for no other reason than that the proceeding was wholly unnecessary. If the House had no business before them, gentlemen might indulge their curiosity in attending the trial in the Senate. For himself, he had no such curiosity. There was a great number of bills on the docket, which required the action of the House; it was a short session; and, if the House attended every day in the Senate during the trial, there would be little or nothing else done. He thought the interest of the people of the United States generally should be taken into consideration; the House had appointed able managers to conduct the impeachment; and these managers had declared that it was not necessary for the House to attend. Why should we go? asked Mr. P. Why neglect the public business to gratify our own curiosity? Mr. P. concluded by expressing the hope that the House would not be compelled to go to the Senate in a body.

Mr. DWIGHT said that the gentleman who had just taken his seat, had remarked that, in attending the trial of the impeachment, gentlemen wished to indulge their own curiosity. Let me ask, said Mr. D., if the Representatives of the nation have not a higher motive for doing so? Were not the House bound to attend in the fulfilment of their constitutional functions? Mr. D. apprehended that the public business might be attended to, and yet the House be able to attend on the trial.

After a few words from Mr. PETTIS,

Mr. CLAY moved to amend the resolution of Mr. DWIGHT, by inserting the words "until otherwise ordered;" so that the House should at any time have the power to rescind the resolution.

Mr. DWIGHT accepted the amendment as a modification of his resolution.

Mr. DODDRIDGE preferred the resolution originally offered by Mr. HOFFMAN on Monday last, and moved its consideration as a substitute for that this day offered by Mr. DWIGHT.

After some remarks by Messrs. DODDRIDGE, HOFFMAN, and STRONG, the amendment was rejected.

Mr. DRAYTON then moved an amendment; which he supported in a few words: when

Mr. HAYNES, believing that the opinion of the members was made up on the subject, called for the previous question. The call was sustained by the House—yeas 90.

The previous question was then put, in the following words, viz. Shall the main question be now put? and decided in the affirmative.

The main question being then put, viz. on the adoption of the resolution offered by Mr. DWIGHT, it was decided in the negative—yeas 84, nays 87.

So the House decided to leave to the managers the conducting of the impeachment against Judge Peck.

The bill to establish certain post roads, and to discontinue others, coming up as the order of the day, it was, on motion of Mr. DANIEL, in consequence of the necessary absence of Mr. WICKLIFFE, who offered a proviso to it on Friday last, ordered to lie on the table.

The House then went into Committee of the Whole, Mr. MAGEE in the chair, and took up the bill for the relief of Bernard Kelly, of Georgia. The report of the committee and the evidence in the case were read. The bill was supported by Mr. THOMPSON and Mr. FOSTER, of Georgia, and Mr. JOHNSON, of Ky., and opposed by Mr. WHITTLESEY and Mr. STERIGERE; the latter of whom moved to strike out the enacting clause of the bill.



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Navy Yards.—The Impeachment.—Pay of Members.

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The motion was negatived; whereupon, the committee rose, and reported the bill to the House without amendment.

The bill was then ordered to be engrossed for a third reading, by yeas and nays—yeas 71, nays 49.

The House then adjourned.

THURSDAY, DECEMBER 23.

## NAVY YARDS.

The following resolution, yesterday submitted by Mr. PEARCE, was taken up for consideration:

*Resolved*, That the Secretary of the Navy be directed to report to this House the annual sum necessary to maintain a navy yard for building and equipping of ships with despatch, under the present navy regulations, with the probable annual amount of deterioration of buildings, and interest of the money disbursed in the erection of buildings necessary for a navy yard."

Mr. HOFFMAN (chairman of the Naval Committee) said he should like to hear some reasons offered for the adoption of the resolution.

Mr. PEARCE replied that he would gratify the gentleman. He assured him that he had not acted unadvisedly in submitting the motion; for he had taken the pains to consult with the Secretary of the Navy, and it was offered with his approbation. The subject had been brought before Congress at the last session; the number of navy yards was then stated to be too great; and it was manifest that if there were more navy yards than was necessary for the public interest, that the expense to the nation of supporting them was greater than it need be. He believed that the expense of maintaining the several yards amounted to \$300,000 annually. The object of the resolution was to obtain such information as would enable the House to act understandingly when the matter should be brought before it.

Mr. HOFFMAN stated that, by a resolution of the House, the Committee on Naval Affairs already had the subject before them; and he hoped the gentleman from Rhode Island would consent that the resolution should lie on the table until he, Mr. H., could confer with the committee. He thought it probable he should be able to do so to-morrow.

Mr. PEARCE remarked that he had no great objection to the resolution lying on the table for a day or two; but the House would recollect that this would be a short session, and that the information was wanted for the action of the House. Certainly no disrespect was intended towards the Committee on Naval Affairs; and he trusted that the gentleman would agree to the reference at this time.

Mr. HOFFMAN said that the information now sought could be obtained through the Committee on Naval Affairs. He thought the adoption of the resolution wholly unnecessary, and would conclude by moving that it lie on the table.

The motion was agreed to.

## THE IMPEACHMENT.

Mr. HAYNES submitted the following resolution:

*Resolved*, That, during the trial of the impeachment now pending before the Senate, this House will meet daily at the hour of eleven o'clock in the forenoon; and that, from day to day, it will resolve itself into a Committee of the Whole, and attend said trial during the continuance thereof, and until the conclusion of the same.

In support of this motion,

Mr. HAYNES said, whatever difference of opinion there might have been on this subject before, the proceedings of yesterday must convince every gentleman of the expediency of the course now proposed. Whilst the House yesterday found itself without a quorum, he saw that among the absentees were gentlemen who had voted against the

proposition for attending the court of impeachment. He meant not to charge any members with impropriety on this account, but mentioned the fact to show the expediency and propriety of passing this resolution. It appeared to him, indeed, to be a singular proceeding, on the part of this House, that when the only precedent in existence was in favor of the course proposed in the resolution now under consideration, the House should have refused to adopt it. Could it be pretended that there was any difference in the magnitude of the present case and the former case of impeachment, which justified different forms of proceeding in the two cases? He presumed not. The same personal liberty, and the same inalienable rights, guaranteed by the constitution of our country, were involved in this case as in that of the impeachment of Judge Chase. Without going unnecessarily into the merits of the case, or consuming one moment of the time of the House, Mr. H. hoped that his motion would prevail.

Mr. TUCKER opposed the resolution. He considered it to be the duty of gentlemen to continue in the House, and attend to the public business of the nation; and, if any member chose to attend the trial, let him account to his constituents for his neglect of duty. He should be very sorry if the resolution was agreed to; and he called for the yeas and nays on its adoption.

Mr. HAYNES said he would ask the gentleman from South Carolina how members of this House were to account for it to their constituents, if, in consequence of the absence of so many members from the House during the trial, some legislation should be defeated which ought to succeed, and some succeed which ought to fail. In looking at this matter, Mr. H. said he viewed it as a practical question. Every one must know what an interest would be excited and felt in this trial at almost every moment of it, and that it would be impracticable for this House to transact business whilst that court was in session.

Mr. TUCKER repeated the question put to him by Mr. HAYNES, and replied, that he should hold himself guiltless if such should be the case. If blame should attach, it would be to those who had not discharged their duties, by remaining in the House. If any important measure should be adopted, affecting the interests of the constituents of members during their absence from the sittings of the House, let those members account for it as they best could. He should attend to what he conceived to be his duty.

Mr. PETTIS, of Missouri, rose to ask the favor of the House to allow this question to be taken by yeas and nays. Whilst up, he said, he would make one remark. The gentleman from Georgia complained that a quorum could not be kept yesterday. But, said Mr. P., when it was doubted whether there was a quorum, it was found, on the Speaker's count, that there was a quorum. Experience sufficiently proved that a quorum could not be got to attend the court; for, on the last attendance of the House, the honorable Speaker and the chairman of the Committee of the Whole, when they returned from the court to the House, returned almost alone, two or three members only returning with them. The root of all difficulty in this matter was, in fact, the indisposition of members to do the business of the House.

The House refused to sustain the call for the yeas and nays; and the question being taken on the adoption of the resolution of Mr. HAYNES, it was decided in the affirmative—yeas 96, nays 60.

So the House determined to attend the trial of the impeachment of Judge Peck.

## PAY OF MEMBERS.

Mr. YANCEY submitted the following resolution:

*Resolved*, That the Committee on Public Expenditures be instructed to inquire into the expediency of reducing the pay and mileage of the members of Congress to six dollars for every day's service, and six dollars for every

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twenty miles going to and returning from the seat of the General Government.

Mr. IRVIN, of Ohio, demanded the question of consideration; and the question being put, it was decided in the negative, by a large majority.

Mr. CROCKETT stated, that, at the last session of Congress, the bill "to amend 'An act authorizing the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same,' passed 18th April, 1806," was rejected, and that a motion was afterwards made that the House reconsider the same; which motion was laid on the table. He rose for the purpose of moving that the House do now proceed to consider the said bill.

The motion was negatived—yeas 74, nays 86.

#### JUDGE PECK.

The hour of twelve having arrived, Mr. BUCHANAN rose, and said, that, as the House had determined upon attending the trial of the impeachment of Judge Peck, he would make a motion that it now go into Committee of the Whole for the purpose. He did not vote for the resolution which had been this day adopted, on the motion of the gentleman from Georgia; yet, as the House had resolved on attending the trial in the Senate, he thought that it ought to be punctual in its attendance.

The SPEAKER observed that he considered it to be the duty of the Senate to notify the House on each day, when it was ready to proceed in the trial.

The House accordingly resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair, and proceeded to the Senate to attend the trial of Judge Peck.

Having returned, Mr. CAMBRELENG reported progress; and thereupon the House adjourned.

#### FRIDAY, DECEMBER 24.

Mr. JOHNS, after a few introductory remarks, moved that the resolution yesterday adopted, on the motion of Mr. HAYNES, that the House do, from day to day, attend the trial of the impeachment of Judge Peck, be reconsidered; and on his motion he called for the yeas and nays, and they were ordered by the House.

Mr. POLK said, that in the first instance he had opposed a resolution of the kind, considering it unnecessary for the House to attend the trial of the impeachment. The House, on the occasion to which he alluded, rejected the resolution offered by the gentleman from Massachusetts, [Mr. DWIGHT,] and on that day did not attend—yesterday they did. The Senate had been notified that this House would attend during the trial, and he was anxious that the House, though the resolution was adopted against his wishes, yet, being adopted, should preserve a proper degree of consistency. He considered it of no importance that the House should attend the trial; they would adjourn to Monday; and if, on that day, a majority should determine against attending, why, be it so; but let us not be blown about by every breeze. In conclusion, Mr. P. moved to postpone the question of reconsideration to Monday next.

Mr. JOHNS making no objection, his motion was postponed by general consent.

After the reception of a number of resolutions,

The House again resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair, and proceeded to the Senate chamber, for the purpose of attending the trial of the impeachment of Judge Peck. Having returned to their hall, the committee reported progress, and the House adjourned to Monday.

#### MONDAY, DECEMBER 27.

After disposing of a number of petitions and resolutions,

The House then proceeded to consider the motion made by Mr. JOHNS, on Friday, that the resolution adopted on the previous day, on the motion of Mr. HAYNES, that the House do, from day to day, attend the trial of the impeachment of Judge Peck, be reconsidered.

Mr. IRVIN, of Ohio, moved to postpone the further consideration of the motion till Monday next.

Mr. JOHNS opposed the motion, and called for the yeas and nays on agreeing to it. They were ordered by the House.

Mr. STERIGERE moved to lay the motion of Mr. JOHNS on the table—and on this motion Mr. MCCREERY called for the yeas and nays, but the House refused to order them.

The question was then put on the motion of Mr. STERIGERE, and decided in the affirmative—yeas 96, nays 79.

#### JUDGE PECK.

The hour of twelve having arrived, Mr. BUCHANAN moved that the House do now resolve itself into a Committee of the Whole, for the purpose of attending the trial of the impeachment of Judge Peck; which motion was agreed to.

Mr. CAMBRELENG was again called to the chair, and the committee proceeded to the Senate chamber. Having afterwards returned to their hall, the committee reported further progress; and thereupon

The House adjourned.

#### TUESDAY, DECEMBER 28.

#### THE TARIFF DOCTRINE.

The following resolution was offered by Mr. HOWARD: *Resolved*, That the following reports, made by the Committees on Commerce and Manufactures, on the subject of protecting duties upon manufactures, be printed for the use of the House: Report made 10th February, 1802: Report made 18th February, 1802: Report made 8th March, 1802: Report made 16th April, 1802: Report made 21st February, 1803: Report made 25th January, 1804.

Mr. WICKLIFFE called upon the mover of the resolution to state the reasons for it.

Mr. HOWARD said that he was always unwilling to introduce any matter into the House that might give rise to debate, and he certainly would not have offered the resolution if he had not supposed the object in view to be of such a character as to justify the consumption of a small portion of the time of the House. Upon reading the old journal, recently reprinted, he had found that such reports were made; and, being curious to see their purport, he had searched for a printed volume containing them, but had experienced such difficulty, that he was obliged to resort to the manuscript records of the House, and in that form he had read the reports in question. He was desirous to give them a more attentive examination than was possible in such a cursory reading, and he thought some of them, at least, worthy of the perusal of every member of the House, as indicating the opinion of the leading politicians of the nation in the years 1802, 1803, and 1804. This was one ground upon which he had offered the resolution. But there was another reason of a more general nature, that he would state in as few words as possible. The reports mentioned in the resolution advocated the policy of protecting manufactures, and were referred to committees of the whole House, by whom they appear to have been discussed, until, in the year 1804, they were referred to the Committee of Ways and Means, at the head of which was a distinguished gentleman of Virginia, now absent on a foreign mission. In one of the reports, the existence of peace in Europe (the brief peace of 1802) was assigned as a reason for the adoption of the policy of protecting domestic manufactures; and he presumed that the return of "war frights,"

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as the committee termed them, was the reason that the subject was not afterwards pressed. This, however, was nothing more than a conjecture. But it was certain that the constitutional power of Congress to impose protecting duties was assumed as a postulate, inasmuch as the reports were based entirely upon the exercise of that power. In the present posture of public affairs, when the existence of such a power was denied, and an appeal made to the great tribunal of public opinion, Mr. H. considered it to be the duty of the House to bring out from its past records, and throw before the nation, whatever could tend in the slightest degree to shed any light upon a question of such magnitude. The years 1802, 1803, and 1804, were looked upon by many of our statesmen as the choicest periods of our civil history; and, although he was no believer in the doctrine that all wisdom was confined to our ancestors, yet, upon a question of constitutional power, the opinions of enlightened politicians who flourished at a period coeval with, or immediately succeeding, the establishment of the Government, were worthy of some consideration. Mr. H. said, he was desirous of throwing them before the public, to pass for whatever they might be worth, and no more. The existence and purport of the reports specified in the resolution, he believed, were not generally known; at least as far as his own limited inquiries had gone, he had not met with them; and he had therefore been induced to offer the resolution.

Mr. SPEIGHT objected to the resolution, as being intended to produce an effect favorable to the exercise by Congress of the power of protecting manufactures. There had been a faction from the beginning of this Government, he said, in favor of such doctrines—the same faction which wanted to establish a monarchy in this country—and had nearly succeeded, too. Did the gentleman mean to bring forward these reports to sustain these doctrines? What will be the effect of reviving these reports now, by causing them to be printed? Are they, said he, to be placed on members' tables, in order to be franked throughout the United States, to prove that Congress has the constitutional right to tax my constituents, and the people of the South generally, for the support of manufactures? Gentlemen have it already in their power to recur to these documents, if they desire to do so; and if they want the aid of them to make speeches, they can have it without having them printed. For his part, Mr. S. said, observation had convinced him that nothing like argument on this subject would have any effect upon this House. He repeated that he was opposed to printing these documents, because of its being intended to operate on public opinion, and because also of the expense of printing them.

Mr. CAMBRELENG said that he differed so far from his friend from North Carolina, that he would publish every thing concerning the exercise of this power by Congress. Mr. C. said he had a great reverence for antiquity; and if we are to have reports of 1802, 1803, and 1804, he hoped gentlemen would agree with him, and revive the tariff of 1803 and 1804, which was the fruit of these reports. There would then be no difference of opinion in this House upon the constitutionality of the power of taxation exercised by Congress. He hoped that, some time hereafter, the Government would revise its acts, and restore those principles which the Government has so far departed from.

Mr. SPEIGHT agreed with the gentleman from New York, that the more the subject was examined, the more obvious must be the propriety of a reduction of the tariff. His objection to the motion was, that, by this partial publication of documents, an impression was intended to be produced that, at an earlier period of this Government, there had been a perfect acquiescence in this power of protecting manufactures by excessive taxation of imports.

A motion having been made to lay the resolution on the table, it was decided in the negative, without a count.

Mr. RAMSEY then moved the following amendment, which he accompanied by a few remarks:

*Resolved*, That, in addition to the usual number, the number be so increased as that the Clerk of this House furnish the Legislatures of the different States each with four copies."

Mr. HOWARD rose, and was about to address the House, when a message was received from the Senate, informing that that body was now sitting as a high court of impeachment: whereupon,

Mr. BUCHANAN moved that the House do now resolve itself into a Committee of the Whole, for the purpose of attending the trial of the impeachment of Judge Peck; which motion was agreed to.

Mr. CAMBRELENG was again called to the chair, and the committee proceeded to the Senate chamber. Having afterwards returned to their hall, the committee reported further progress; and thereupon

The House adjourned.

WEDNESDAY, DECEMBER 29.

### THE TARIFF DOCTRINE.

The House having resumed the consideration of the resolution yesterday moved by Mr. HOWARD, of Maryland, for printing certain reports of the Committees on Commerce and Manufactures in the years 1802, 1803, and 1804, with Mr. RAMSEY's motion to amend the resolution, so as to cause to be sent to the Legislature of each State in the Union four copies of such reports, when printed:

Mr. HOWARD opposed the amendment proposed by Mr. RAMSEY, which, he said, proposed to give more consequence to the reports than they deserved. He was not disposed to bring them either before the House or the nation as conclusive evidence of the constitutionality of the tariff laws, but as the means of assisting the formation of a correct opinion upon the subject. When printed, these reports would doubtless be reprinted in the public journals, and would thus be circulated. They will altogether make but a few pages; and he was unwilling to send such a matter as that to the Legislatures of the several States, not deeming it of sufficient importance to be submitted to their consideration. Mr. H. said he had a very high idea of the dignity of the Legislatures of the several States, and had more than once regretted to see them coming to this House with petitions. But that was a matter into which he would not enter at present. He objected, further, to the proposed amendment, that, if adopted, it would introduce other amendments, and the original proposition would be in danger of being crushed by the weight of the amendments.

The question was then taken on Mr. RAMSEY's amendment, and decided in the negative.

Mr. SPEIGHT said he had not changed his opinion on this subject since yesterday. He would only now remark, that, in the short period he had been a member of this House, and of another legislative body, he never knew a proposition like this to be made. That the House has a right to print documents necessary to throw new light on subjects before it, no one would deny; but it had not the right to print old documents for electioneering purposes, and to show what our ancestors had considered constitutional. This controversy concerning the tariff he had never viewed as one between the North and the South, but between the aristocracy and the people; and this is to be found in the South as well as the North. If documents were to be printed to assist one side in this controversy, let both sides have the same chance before the people. He presumed that there were other documents bearing on this subject which might be interesting to the people, besides those specified by the gentleman from Maryland.

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He moved to amend the original proposition by adding the following, which he hoped the gentleman would accept as a part of his motion:

"Also the report of the Committee of Ways and Means on the state of the finances, made 13th March, 1828; report of the Committee on Commerce, made 8th February, 1830."

Mr. HOWARD said that he was sorry that he could not assent to the amendment, and, in stating his objection to it, it would be necessary for him to be more explicit than he was yesterday. An impression has gone abroad, said he, and has been carefully cherished by a certain description of politicians who are opposed to the system of protection of manufactures, that the party which elected and sustained Mr. Jefferson were opposed to that policy. This question, Mr. H. said, was now before the nation, and his only object was to throw such light upon the question, as would enable the people to decide it correctly. The amount of talent in the nation without these walls was many hundred fold greater than that within them, and wanted not the aid of this House to form an opinion. Thus, when the House spread before the people the materials from which to form a judgment, it had done its duty. The opinion that the party which sustained Mr. Jefferson was averse to duties for the protection of manufactures, had been scudulously instilled into the public mind. That, opinion, however, was wholly erroneous. The publication of the reports in question, taken in connexion with the tariff law of 1804, would show that, from the year 1802 to the year 1804, the party which sustained Mr. Jefferson not only sustained the constitutionality of such laws, but actually passed them. If this was made out by this publication, it would go to remove erroneous impressions, which, like all other erroneous impressions, ought to be removed. Reviewing the provisions of the act of 1804, Mr. H. said it was clear that, in passing it, Congress had acted under the power of which the constitutionality had since been called in question. All that he wished to show, by printing these reports, and a reference to the act which was founded upon them, was, that the party which is now supposed to have been hostile to the power of protecting manufactures, actually did sustain that power. What effect this fact would have upon public opinion, it was not his province to determine. It was sufficient for him to believe that the measure which he proposed would remove from the public mind an erroneous impression, and he wished, therefore, that it should not be encumbered with other matters foreign to this object.

The question was then taken on Mr. SEYMOUR's amendment, and decided in the negative.

Mr. CAMBRELENG asked the assent of the gentleman from Maryland to add to his proposition the report of the Secretary of the Treasury in March, 1792—the first report made by him when money was wanted to pay the public debt; in which he refers to that fact, and states that when the object of payment of the debt is accomplished, these taxes will be no longer necessary. The time is approaching when that question will come up, and this report would be useful. He took occasion to say, that he concurred in the policy of reducing the duties on raw materials, and he would go as far as any one to protect domestic industry, by repealing, not increasing, the taxes on imports. That was the policy of the act of 1804. It has not been the policy upon which Congress have since acted; for they have protected industry by heaping taxes on all the necessaries of life, acting with particular oppression on the agricultural interest. But, Mr. C. said, he would not go into that matter now. Mr. C. mentioned another report, which he wished included in the motion. These two reports, he said, interesting as they were, he had not been able to find in print, except in the pages of the United States Gazette. He hoped the gentleman from Maryland would consent to include these two reports in his motion.

Mr. HOWARD said he had just stated to the House the reasons which induced him to decline accepting the amendment of the gentleman from North Carolina. The same reasons operated upon him in now declining to accept that proposed by the gentleman from New York. His object, he said, was a limited one, and confined to a short space of time. As the idea had gone abroad that the party which came into power with Mr. Jefferson was opposed to duties for protecting manufactures, he wished to show that that opinion was unfounded. His motion affirmed nothing; it denied nothing—it sought only for truth. The papers desired by the gentleman from New York had nothing to do with the point of his inquiry, and he could not, therefore, accept his amendment.

Mr. MALLARY said he had been opposed to the amendment of the gentleman from North Carolina, because ten thousand copies of the latter report had been printed at the last session of Congress. He declared himself in favor of that offered by the gentleman from New York. It was feared, by some gentlemen, that the resolution would be overloaded by amendments, if the present one was adopted. He had no fears of this kind. He wished, for himself, to go back to the early periods of the Government, far and wide, so that the wisdom of the sages then in the councils of the country might be diffused amongst the people of the present day, and their opinions and principles be widely disseminated. For his part, he should like to know what had been the sentiments of Hamilton and Jefferson on the subject now agitated, and what their principles were. He had risen to express his hope that the House would bestow a liberal indulgence, and that all that was required to be printed, by the resolution and amendment, would be granted for the public information. The principles of the early legislators of the Government were not to be lightly treated. The House had heretofore ordered a reprint of the old journals; but, asked Mr. M., who reads or thinks of them? Here and there they were consulted, to be sure, when some individual wished to know how a member or members had voted on certain questions; but, as matter of history, they were of comparatively little use. The matters called for by the resolution and proposed amendment would, on the contrary, be universally read by the people of the United States. He hoped, therefore, the House would order the printing.

Mr. ARCHER said that the object of the motion of the gentleman from Maryland, it was apparent, was not to supply any defect of information in this House; for the gentleman had avowed that his purpose was political—to produce, by the weight of the authority of the House, an effect, not to inform the public mind, merely, but to produce a party effect. He submitted it to the gentleman himself, whether such an operation was any part of the proper duty of this House? He would ask whether it consisted with its dignity? Whether the purpose avowed by the mover was one which the House ought not to avoid? What right had the House to apply its contingent fund, as proposed, to mere party purposes? If our public men have been inconsistent, let them be rebuked for it. But is this House the proper organ to do it?

[Mr. A. here made an allusion to the distant absence of one of the persons implicated in such a charge, (supposed to be Mr. RANDOLPH,) but Mr. HOWARD rose, and disclaimed any such allusion or object.]

Mr. ARCHER said, on the face of the resolution, as well as by the avowal of the mover, these papers were not to be printed for the information of the House, but to subserve party purposes; which, he repeated, was no part of the proper duties of the House, which, he hoped, would not lend its authority to any such purpose.

Mr. WAYNE, of Geo., commenced some remarks in favor of the amendment; but had uttered one or two sentences only, when

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Mileage of Members.

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A message was received from the Senate that they were sitting as a court of impeachment.

The House then forthwith resolved itself into a Committee of the Whole, (Mr. MARTIN, of S. C. in the chair,) and proceeded to the Senate chamber again, to attend the trial of Judge Peck.

Having afterwards returned to their hall, the committee reported further progress; and thereupon

The House adjourned.

#### THURSDAY, DECEMBER 30.

The House resumed the consideration of the resolution of Mr. HOWARD, ordering the printing of certain reports; the amendment proposed yesterday by Mr. CAMBRELENG being under consideration—

Mr. WAYNE observed that, when the hour expired yesterday, he was about to state the distinction between the resolution of the gentleman from Maryland and the gentleman from New York. There was no such difference between them as would justify the House in rejecting the one and adopting the other. If the object of the gentleman from New York, in submitting his amendment, was to inform the public of Mr. Jefferson's opinions, on a certain subject, in '93, upon what principle will the House reject his amendment, and adopt the resolution of the gentleman from Maryland, when it calls for the doctrines promulgated by the same in 1803? and that, too, when the avowed object of the gentleman from Maryland is not to enlighten the public mind, but to subserve party purposes. The object of the gentleman from Maryland was to prove that Mr. Jefferson, and the party that came with him into power, were in favor of the protective system. Mr. W. had no objection to the resolution, and he would vote for it, whether the amendment of the gentleman from New York was adopted or not.

He would vote for it because there could be nothing tortured out of these reports to prove that Mr. Jefferson, or his friends, had, at any time, conceded the power in question. Mr. W. said he was not now disposed to enter into a discussion of that question: but, when he saw an attempt made to impress the belief that Mr. Jefferson was in favor of certain doctrines, he felt bound to correct, as far as he could, the erroneous impression. Such a proposition was never distinctly affirmed by Mr. Jefferson, nor by his Secretary of the Treasury, Mr. Gallatin. He would acknowledge that duties were imposed on foreign articles during Mr. Jefferson's administration; but it was equally well known, that the express object of that tariff was, not as a bounty to domestic manufactures, but to liquidate the national debt. Sir, said Mr. W., in looking over Mr. Gallatin's reports, I have found no evidence whatever, of the slightest interference with this subject. In one of Mr. Jefferson's messages to Congress, he alluded to the encouragement of such manufactures as would render us independent. A general proposition was made in Congress to refer this part of the message to a committee, in order to see what might be necessary to supply the wants of the military establishment.

A debate arose on this subject, in which the strong ground was taken, that Congress had no power to act on the subject, and that it was strictly confined to revenue bills. From these circumstances, Mr. W. thought it a matter of inference, not to be resisted, that, so far as the character of Mr. Jefferson's administration is concerned, there is no support to be obtained for the protective system. He did not say that all Mr. Jefferson's friends were opposed to it. As he said before, Mr. W. was indifferent, himself, whether the amendment of the gentleman from New York was adopted or not. He would vote both for it and the resolution.

The gentleman from Maryland wishes to call up reports of this House in 1802, '3, and '4, to prove that Mr. Jefferson, and the party in power with him, were in favor of the

protective system. Why not, said Mr. W., suffer Mr. Jefferson's own report, on the same subject, to be given to the public? Why not permit him to speak for himself? He believed the reports were only to be found in the library of Congress.

Mr. DRAYTON said he was not disposed to make any remarks on the merits of the reports called for; either by the gentleman from Maryland, or the gentleman from New York. The House, he observed, had no right to adopt either the resolution or the amendment. He had no doubt but all would recollect a joint resolution passed last session, prohibiting the expenditure of the contingent fund for any printing other than that called for by the current business of either House. All other printing must be paid for out of the treasury, by the ordinary process of an appropriation bill. He would, for the satisfaction of the House, ask the Clerk to read the joint resolution to which he alluded. And, after it had been read, Mr. D. moved that the resolution and amendment be referred to the Committee on the Library; and the question being put, it was agreed to.

#### MILEAGE OF MEMBERS.

Mr. CHILTON submitted the following resolution:

*Resolved*, That a select committee be appointed, with instructions to inquire into the expediency of adopting some uniform mode for computing the distance for which members of Congress shall be allowed compensation for mileage to and from the seat of Government; and that said committee have leave to report by bill or otherwise.

In support of this resolution,

Mr. CHILTON said that he had not offered the resolution with a view to cast any imputation on honorable members. Neither had he offered it from electioneering motives, or with a view to home consumption. That there was a great disparity, at the present time, in the computation of the mileage of members, could not be denied. As an example, he would state that, of two gentlemen, both living in the same section of the country, one had, by a difference in the computation of mileage, received a difference in amount of one-half. In 1825, the mileage of the two Senators from Missouri, both residing in St. Louis, so varied, that one received \$1,700 and a small fraction, while the other received \$3,300 and a large fraction. He had made it his business to examine into the subject, and he had discovered many inequalities in the payment of the mileage of members, which, in his opinion, called loudly for the interposition of the House, so that an equality might be established amongst members. He wished the resolution to be referred to a committee; but, if the House did not consider it a matter of sufficient importance to take this course, he was satisfied. If they saw proper to take up the subject, it would consume but little time.

Mr. CAMBRELENG did not think the resolution of sufficient importance for the appointment of a select committee, and suggested to the mover to refer it to the Committee on the Post Office and Post Roads.

Mr. CHILTON only wanted some order taken upon the resolution by the House, and declared his readiness to agree to the proposed modification.

Mr. WICKLIFFE said it would be recollected that, at the last session of Congress, the House of Representatives had passed a bill on this subject, which had not been acted upon by the Senate; and he was much astonished at hearing of some of the reasons which were assigned in that body why the bill should not pass. [The SPEAKER said it was not in order to allude to proceedings in the Senate. Mr. WICKLIFFE: Not to proceedings of the last session? The SPEAKER: No, sir. Mr. WICKLIFFE: If we have no right to refer to proceedings of either House at former sessions of Congress, I am of opinion that the parliamentary rules ought to be amended.] What he had risen to suggest, however, was, that the Committee on



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*The Claim of James Monroe.—Asylum for the Blind.—The Impeachment.*

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Public Expenditures appeared to him the most proper committee to refer the subject to.

Mr. CHILTON said he had no objection to such a reference of it.

Mr. JENNINGS, after a few observations, moved to lay the resolution on the table.

Mr. CHILTON called for the yeas and nays on the motion, and they were ordered by the House.

Mr. ELLSWORTH called for the reading of the present law on the subject of the mileage of members, and the law was read by the Clerk.

The question was then taken on laying the resolution on the table, and decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Anderson, Barnwell, Buchanan, Dudley, Edward Everett, Gurley, Hammons, Haynes, Hinds, Jarvis, Jennings, Kennon, Norton, Henry R. Storrs, Vinton, Edward D. White, Wilde.—17.

NAYS.—Messrs. Alexander, Alston, Angel, Archer, Armstrong, Arnold, Bailey, Noyes Barber, Barringer, Bartley, Bates, Baylor, Beckman, Bell, James Blair, John Blair, Bockee, Boon, Borst, Brown, Cahoon, Cambreleng, Carson, Chandler, Chilton, Claiborne, Clay, Clark, Coke, Coleman, Condict, Conner, Cooper, Cowles, Craig, Crane, Crawford, Crockett, Creighton, Crocheron, Crowninshield, Daniel, Davenport, Warren R. Davis, Denny, Desha, De Witt, Dickinson, Doddridge, Draper, Drayton, Duncan, Dwight, Eager, Earll, Ellsworth, George Evans, Joshua Evans, H. Everett, Findlay, Finch, Ford, Forward, Foster, Fry, Gaither, Gilmore, Gordon, Green, Grennell, Hall, Halsey, Harvey, Hawkins, Hodges, Holland, Hoffman, Howard, Hubbard, Hunt, Huntington, Ihrie, Ingersoll, T. Irwin, W. W. Irvin, Johns, Richard M. Johnson, Cave Johnson, Kendall, Kincaid, Perkins King, Adam King, Lea, Leavitt, Lecompte, Lent, Lewis, Loyal, Lumpkin, Lyon, Magee, Marr, Martindale, Martin, Thomas Maxwell, Lewis Maxwell, McCoy, McDuffie, McIntire, Mercer, Mitchell, Muhlenberg, Nuckolls, Patton, Pearce, Pettis, Pierson, Polk, Potter, Randolph, Reed, Rencher, Richardson, Roane, Russel, Sanford, Scott, W. B. Shepard, A. H. Shepperd, Shields, Semmes, Sill, Smith, Speight, Ambrose Spencer, Sprigg, Standefer, Sterigere, William L. Storrs, Strong, Swann, Swift, Taylor, Test, Wiley Thompson, John Thomson, Tracy, Trezvant, Tucker, Vance, Varnum, Verplanck, Washington, Wayne, Weeks, Whittlesey, Wickliffe, Williams, Yancey, Young.—160.

The question was then put on the adoption of the resolution, and it was agreed to.

FRIDAY, DECEMBER 31.

After the reception of a variety of petitions and resolutions,

Mr. CROCKETT made an unsuccessful motion for the House to reconsider the Tennessee land bill. The House refused, by a vote of 69 to 97.

#### THE CLAIM OF JAMES MONROE.

The House then, on motion of Mr. MERCER, resolved itself into a Committee of the Whole on the state of the Union, Mr. MARTIN in the chair, on the bill reported at the last session for the relief of James Monroe.

This bill is in the following words:

[*Be it enacted, &c.,* That the Secretary of the Treasury be, and he is hereby, authorized and required to cause to be paid to James Monroe, out of any unappropriated moneys in the treasury, the sum of \$67,980 96.]

Mr. MERCER, in a speech of something like an hour's length, explained the merits of this bill, and the grounds upon which the committee had gone in reporting it. He advocated the passage of the bill with his usual eloquence.

Mr. CHILTON, of Kentucky, made a strong speech against the bill.

Mr. WHITTLESEY, of Ohio, followed on the same side of the question.

Mr. GORDON, of Virginia, and Mr. CAMBRELENG, of New York, vindicated their constituents from reflections upon them in consequence of their interposition in favor of this claim.

Mr. COKE, of Virginia, expressing a desire for further examination of this subject, moved for the rising of the Committee of the Whole.

The committee rose, and the House adjourned to Monday.

MONDAY, JANUARY 3, 1831.

#### ASYLUM FOR THE BLIND.

Mr. EVERETT, of Massachusetts, presented the memorial of the New England Asylum for the Blind. He observed that the subject of this memorial was one of interest and importance: it was a very ably drawn paper, and contained much valuable information. The subject was one new to the House, and comparatively so to the public. As there was no standing committee of the House to which it appropriately belonged, he would submit a motion, (which he made with sincere reluctance, knowing the just aversion of the House to the multiplication of select committees,) that the reading of this memorial be dispensed with; that it be referred to a select committee, and be printed.

After inquiries from Mr. WICKLIFFE and Mr. HAYNES, as to the nature and objects of the memorial, the motion of Mr. EVERETT prevailed, and the subject was referred to a select committee of seven—69 votes to 54.

Mr. RICHARDSON submitted the following resolution: *Resolved*, That the Committee on Revisal and Unfinished Business be instructed to inquire whether any measures may be devised and adopted to expedite the business before this House; and to report thereon by resolve or otherwise.

Mr. PEARCE opposed the reference of the resolution to the committee proposed; he thought that the better reference would be to the Committee on Retrenchment.

Mr. RICHARDSON thought that committee had the superintendence of all the business before the House, and he knew of none better to entertain the subject of his resolution. There were no less than two hundred bills lying over from the last session, and he thought some course should be taken to expedite the business before the House.

Mr. MCCOY said that a great number of rules had been adopted already, to facilitate the business of the House, as it was said, and he was rather disposed to rely on them to help us along, than to make any more. If the resolution of the gentleman passed, it would change the whole method of doing business; this changing of forms had been tried too often, and the more rules we had, the worse the House seemed to get along. He therefore moved to lay the resolution on the table.

The motion prevailed, and the resolution was laid on the table accordingly.

#### THE IMPEACHMENT.

Mr. JOHNS moved to take up the motion offered by him on Monday last, to reconsider the resolution adopted on the motion of Mr. HAYNES, on the 23d instant, that the House would daily resolve itself into a Committee of the Whole, for the purpose of attending the trial of the impeachment of Judge Peck.

Mr. JOHNS called for the yeas and nays on his motion; they were ordered by the House, and, being taken, stood—yeas 117, nays 48.

The question then recurred on the adoption of the motion of Mr. JOHNS, in other words, to reconsider that of Mr. HAYNES, and he called for the yeas and nays on this question, also. They were ordered by the House.

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*James Monroe.—Bernard Kelly.*

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Mr. JOHNS said he did not think it worth his while to enter upon any argument on the subject; he believed the minds of gentlemen were already made up, and he would not unnecessarily consume the time of the House.

Mr. HAYNES would not recapitulate what he had said on a former occasion. He was opposed to reconsideration, and trusted that the House would still continue to attend the trial.

Mr. SPENCER, of New York, in a few brief remarks, stated the progress of the trial; that all the witnesses for the prosecution had been examined; and he presumed that two days would be sufficient to examine those for the respondent; when the defence would be opened. He was in favor of the House continuing to attend the trial.

Mr. PETTIS did not know where the gentleman from New York procured his information, that two days would be sufficient to complete the testimony in the case. It was probable quite as much time would be consumed in the examination of the witnesses for the respondent as for the prosecution. Whether the time were to be short or long, however, with him the question arose, whether the House intended, at the present session, to do any business? It was wholly unnecessary for the House to attend; and there could be no better evidence that such was the opinion of gentlemen, than the fact, that there had never been present at the trial more than fifty members—more frequently thirty, and even so few as twenty. It had before been said, we could not keep a quorum here while the trial was going on; the facts were, that a quorum could not be kept in the Senate; and why, asked Mr. P. should not the House decline going? It was wholly unnecessary, and he hoped they would determine to stay in the Hall.

Mr. SPENCER said he felt sure that the remaining part of the trial would not take up much more of the time of the House. Of the witnesses for the respondent, three of them had given depositions, and he felt certain that two days would be amply sufficient to conclude the examination of all the evidence.

Mr. HOFFMAN said that he was induced, from the last vote taken by the House, to offer a single argument. This House had, in the performance of their high powers, impeached a judge of the United States; they had attended his trial until they had heard all that had been said against the accused; and now, when the examination of witnesses for the defence was about to take place, gentlemen were ready to say, we have heard enough; we have heard all that can be said to prove the judge guilty, we wish to hear nothing in favor of his innocence. He considered that the House would be doing injustice to itself not to attend. The court had adjourned to Wednesday, and he saw no good reason for agitating the question of attendance at this time. He hoped the House would have some regard to its character for consistency, if not for justice. As he could see no necessity for acting on the resolution at this time, he would move that it lie on the table.

Mr. JOHNS called for the yeas and nays on this motion, and they were ordered by the House.

Being taken, they stood—yeas 55, nays 111.

So the House refused to lay the resolution on the table.

The question was then put on the reconsideration of the resolution, and decided in the affirmative.

Here the hour expired for the consideration of resolutions.

#### JAMES MONROE.

Mr. MERCER made an ineffectual attempt to get up the bill for the relief of James Monroe; the Chair declaring the motion to be out of order at this time.

#### BERNARD KELLY.

The engrossed bill for the relief of Bernard Kelly came up as the special order of the day.

[This bill provides the refunding to Bernard Kelly, of Georgia, out of the funds of the Post Office Department,

one hundred and seventy-three dollars and eighty-two cents principal, two hundred and eighteen dollars and twenty cents interest, and forty-three dollars and eighty cents costs, making in the aggregate four hundred and thirty-five dollars and eighty-two cents, which was recovered by the Postmaster General against the said Kelly, in the district court of the United States for the State of Georgia, and paid by the said Kelly to the Post Office Department; the principal having been lost by the said Kelly, in his office, which was consumed by fire in the year 1805, while the said Kelly was acting Postmaster in the town of Washington, in said State.]

Mr. McDUFFIE said, if he understood the principles of the bill under discussion, it involved a violation of repeated decisions of the House. If an officer of the United States is to be discharged from all liability merely by his own statement, he would venture to state, that it would be attended with dangerous consequences. He did not pretend to be minutely informed in relation to the circumstances of this case; but if a public officer is to be not only exonerated from the payment of the money in his possession, but to be refunded the interest accruing thereon, he looked upon it as dangerous to the interests of the United States.

Mr. WAYNE said, that when a public officer, visited by a calamity which could neither be foreseen nor prevented, comes before this House for relief, two inquiries present themselves: one is, how has the loss occurred? The second is, what was the condition of the individual, and whether he had exercised proper care in the discharge of his duty? It was clearly shown in this case, that the claimant was in possession of the money; that his character as a public officer was unimpeachable; that at the hour of midnight the fire took place which consumed his house, goods, money, and papers. Under such circumstances, he knew of no stronger case that could be presented to the House. The time, the place, the circumstances, were of such a character that no better testimony than the claimant's own oath could be adduced.

Mr. BLAIR, of South Carolina, said he rose merely to apologize for the apparent inconsistency between the vote he formerly gave upon this bill, and that which he felt himself in duty bound to give now. When this bill was ordered to be engrossed and read a third time, he voted for it; but he should vote against it at present. When he voted for this claim some days ago, he knew very little about it. He sat on the outskirts of the hall, where it was very difficult to hear what was said; and he had taken many things for granted, in its favor, which he found, on examination, did not exist.

Strip this case, he said, of the allegations of the petitioner himself; divest it of his own affidavit, and there was no testimony that could support it. But there was very conclusive evidence against it; a judicial decision of his own district court, and by a jury of his own fellow-citizens, of Georgia, had been made against the petitioner in this case. The defalcation on which that judgment was founded, occurred twenty-five years ago. And now, at this late day, this bill proposes, virtually, to reverse the judgment of that court, on the allegations of the petitioner alone, and those allegations made under all the provocations and temptations of extreme poverty. He thought this would be setting a bad example, and establishing a dangerous precedent.

It had been said the petitioner was an honest man—a poor, unfortunate man, and that this was a case of peculiar hardship. This might all be very true; but such considerations as these, would not justify him, or any other member of the House, in voting for a claim unauthorized by proper testimony. This House, said Mr. B., should be governed in its proceedings by certain principles; by a fixed and impartial mode of legislating on the claims of individuals; and their grand rule should be never to vote

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Bernard Kelly.

[JAN. 3, 1831.]

against the claims of even a political enemy, when well supported, nor to admit those of their best friends without sufficient proof.

But, Mr. B. said, he was not disposed to argue against the bill. He was willing that every gentleman should vote for it who could reconcile it to his notions of public duty to do so; and there were several reasons why he should like to vote for this claim himself, if he could do it with propriety. It came from a quarter where but few favors of any kind were asked for, and still fewer granted. The bill had been reported by a committee that he highly esteemed, and was supported both by his personal and political friends. If, therefore, he thought it only half right, he would vote for it. But, believing, as he did, that the passage of this bill would hold out encouragement to every delinquent postmaster in the United States to burn up his office and commit perjury and forgery, and that it would, in its tendency, overwhelm the treasury with a torrent of unjust demands, he was compelled by a sense of public duty to vote against it.

Mr. THOMPSON, of Georgia, in reply to the objections urged against the bill by Messrs. McDUFFIE and BLAIR, of South Carolina, said he held in his hand reports of committees of the House, which presented forty or fifty cases involving precisely the same principles as those embraced in this claim, in which relief had been extended. He cited on a former occasion, when the bill was before the House, the case of J. D. Hays, in which the only testimony on which his claim rested, was the solemnity of his own oath, and a certificate from three of his neighbors. He did not advocate the principle of allowing, in all cases, a man's own oath as sufficient testimony, when his own interest was involved; but when the House had for years acted on the principle involved in the case under consideration, without any evil results, he thought the case of the unfortunate Bernard Kelly should not be selected as an exception.

He cited several cases in which the only testimony relied on to support them was the evidence of the party claiming relief. Bernard Kelly has proved, by as creditable and honorable men as are to be found in any country, that he himself was an honorable man. He comes, supported by this testimony, before Congress, and states, on oath, that this money was lost in the manner represented. He urged the propriety of allowing the claim, with great earnestness, and showed that a long list of claims of a similar nature had been allowed, though not supported in many instances with as many strong points of evidence as the present claim. He regretted that the gentlemen from Pennsylvania and Ohio, who had told the House that evidence could be adduced from the Post Office Department to show that the claim ought not to be allowed, were so tardy in producing it. He had called at the department himself, and could find no such testimony. He thought, therefore, that the circumstances of the case were so strong, the claimant's character for veracity so well supported, and the facts being stated upon oath, all tend to make his case so strong, that he thought the House ought to allow the claim.

Mr. STERIGERE opposed the bill. He stated that the course pursued by the claimant in drawing up his papers before the House, was one not of candor and openness, but of extreme caution. He observed that a very important fact was not stated, which was the time at which the house of the claimant was burned. This would be of the utmost importance in deciding the case; because it would then be seen whether at that time the money stated to be lost by fire, was actually due the Post Office Department. He said that he had derived information from the Postmaster General, stating that half a million of dollars would not liquidate the claims against that department, resting on the same principle involved in the case of Kelly, now before the House.

Mr. WHITTLESEY said, the case of Fisk, alluded to by the gentleman from Georgia, [Mr. THOMPSON,] was by no means analogous to the one before the House. Fisk's case rested not on his own testimony. He was not within twenty miles of the place at which the robbery was committed. The committee had not taken into consideration either his testimony or statement in the case. Fisk's own son was the clerk from whom the money was taken; and the amount taken rested not on his oath alone, but was supported by the testimony of three other witnesses. The marks of violence were evident on the doors of the house, and the robbers were vigilantly pursued.

Mr. SPENCER said that the Postmaster stood in the light of a trustee for the Government; and the question ought to be, not one of strict legal accountability, but should be viewed as a case in equity; and he showed from the decisions in the courts of chancery that this case was one which entitled the claimant to the relief asked for in the bill. The Postmaster was in fact a trustee; he was not bound to keep the public money any more secure than his own property; and if it be satisfactorily proved that his own property was destroyed by fire, upon every principle of equity, he was exonerated from all the responsibility to the Government incurred by the loss of the money in his possession.

Mr. WILLIAMS, of North Carolina, opposed the bill, and the principles laid down by the gentleman from New York, [Mr. SPENCER.] No agent of Government should be allowed to relieve himself from his responsibility to Government by his own oath. If our 8,000 postmasters in the United States were allowed to do so, the prosperity of the treasury would not soon be so flourishing as we have been told it was. It is the uniform custom of the Post Office committee not to receive the testimony of any individual in support of his own claim. He thought the principles advanced by the gentleman from New York would prove dangerous, if sanctioned by the House. He thought there was an evident distinction between the relation of a public agent and that of a trustee; and that the course pursued by the one should not govern the action of the House on the case before them.

Mr. HOFFMAN also opposed the principles laid down by the gentleman from New York; and showed where a public officer who was benefited by his trust, differed widely from a trustee.

Mr. HAYNES would not stop to moot the point, whether an officer of the General Government should be viewed as a trustee, and be entitled to the same privileges. He agreed with the gentleman from South Carolina, that the revenue laws should also be regularly enforced; still, when cases came before the House supported by such testimony, when an officer of the Government had been visited by a calamity which he could neither foresee nor prevent, he thought that such a claimant was fairly entitled to relief. He cited several cases of a similar character, in which relief had been extended by the House.

Mr. BATES, of Massachusetts, without entering into an investigation of the extent of credit to be given to a man's oath in his own case, or whether it should be received at all in such a case, opposed the bill because the claimant did not state how much was lost in money. He had told the House that 123 dollars were lost, part in money and part in vouchers. From these circumstances alone, he thought the bill ought to be rejected.

Mr. CHILTON asked for the previous question.

Mr. THOMPSON asked the withdrawal of the motion for a moment, which being done, Mr. T. proceeded to show that in the case of Fisk, alluded to before, and commented upon by the gentleman from Ohio, [Mr. WHITTLESEY,] the clerk there spoken of was deputy collector. In support of this position, he read a letter from the Secretary of the Treasury, showing that the clerk was appointed deputy collector in the usual manner; and fur-

JAN. 4, 1831.]

Denmark and the United States.—British Colonial Trade.—The Fifth Census.

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ther, that the collector was ordered to deposite the receipts of his office monthly in bank, except so much as would be necessary to defray the current expenses of the office. He showed that the collector applied to Congress for relief, and brought the deputy collector forward as a witness. In reply to the objections urged against the claim, that it was not supported by the production of the vouchers and drafts from the Post Office Department, which were stated to have been lost, the fact that the house of the claimant had been consumed by fire, and all swept away, was a sufficient reply.

Mr. PEARCE called for the previous question; which being sustained,

Mr. CHILTON called for the yeas and nays, which were ordered, and the question decided in the negative—yeas 38, nays 114.

Mr. PEARCE now demanded the previous question, and the House sustained the demand.

The main question was then put, "Shall the bill pass?"

And it was decided in the negative, by yeas and nays—yeas 38, nays 114.

And so the bill was rejected.

#### DENMARK AND THE UNITED STATES.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives of the United States:*

I transmit herewith to Congress the copy of a correspondence which lately passed between Major General Von Scholten, his Danish Majesty's Governor General of his West India possessions, and special minister to the United States, and Mr. Van Buren, Secretary of State, concerning the regulation of the commercial intercourse between those possessions and the United States; which comprehends the propositions that General Von Scholten made to this Government, in behalf of his sovereign, upon that subject, and the answers of the Secretary of State to the same, the last showing the grounds upon which this Government declined acceding to the overtures of the Danish envoy.

This correspondence is now submitted to the two Houses of Congress, in compliance with the wish and request of General Von Scholten himself, and under the full persuasion, on my part, that it will receive all the attention and consideration to which the very friendly relations that have so long subsisted between the United States and the King of Denmark especially entitle it, in the councils of this Union.

ANDREW JACKSON.

WASHINGTON, December 31, 1830.

The message was read, and, together with the documents accompanying it, referred to the Committee on Commerce, and ordered to be printed.

#### BRITISH COLONIAL TRADE.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives of the United States:*

I communicate to Congress the papers relating to the recent arrangement with Great Britain, with respect to the trade between her colonial possessions and the United States, to which reference was made in my message at the opening of the present session.

It will appear from those documents, that, owing to the omission, in the act of the 29th of May last, of a clause expressly restricting importations into the British colonies in American vessels to the productions of the United States; to the amendment engrafted upon that act in the House of Representatives, providing that, when the West India colonies should be opened, the commercial intercourse of the United States with all other parts of the British dominions or possessions should be left on a foot-

ing not less favorable than it now is; and to the act not specifying the terms upon which British vessels coming from the Northern colonies should be admitted to entry into the ports of the United States; an apprehension was entertained by the Government of Great Britain, that, under the contemplated arrangement, claims might be set up on our part, inconsistent with the propositions submitted by our minister, and with the terms to which she was willing to agree; and that this circumstance led to explanations between Mr. McLane and the Earl of Aberdeen, respecting the intention of Congress, and the true construction to be given to the act referred to.

To the interpretation given by them to that act, I did not hesitate to agree. It was quite clear that, in adopting the amendment referred to, Congress could not have intended to preclude future alterations in the existing intercourse between the United States and other parts of the British dominions; and the supposition that the omission to restrict, in terms, the importations to the productions of the country to which the vessels belong, was intentional, was precluded by the propositions previously made by this Government to that of Great Britain, and which were before Congress at the time of the passage of the act; by the principles which govern the maritime legislation of the two countries, and by the provisions of the existing commercial treaty between them.

Actuated by this view of the subject, and convinced that it was in accordance with the real intentions of Congress, I felt it my duty to give effect to the arrangement, by issuing the required proclamation, of which a copy is likewise herewith communicated.

ANDREW JACKSON.

WASHINGTON, January 3, 1830.

The message was read, and, together with the accompanying documents, were referred to the Committee on Commerce, and 6,000 copies ordered to be printed.

The House then adjourned.

TUESDAY, JANUARY 4.

#### THE FIFTH CENSUS.

Mr. STORRS, from the select committee appointed on the President's message relative to the fifth census, reported the following bill:

"*Be it enacted*, &c. That it shall and may be lawful for such of the assistants to the marshals in the respective States and Territories, who have not, before the passage of this act, made their respective returns to such marshals, under the act hereby amended, to complete their enumerations and make their returns under the said act, at any time before the 1st day of June, 1831: *Provided*, That nothing herein contained shall be deemed to release such assistants from the penalties contained in the act aforesaid, unless their returns shall be made within the time prescribed in this act."

Mr. STORRS moved that the bill be ordered to be engrossed for a third reading, observing that there were but three cases of failure to make the returns within the requisite time for which the bill was intended to provide; namely, from one county in Tennessee, one county in Indiana, and two of the wards of the city of New York.

Mr. BELL, of Tennessee, desired to know whether the passage of the bill was intended to interfere with the apportionment, at the present session, of the ratio of representation under the new census; because, as the Legislature of Tennessee sits but once in two years, a postponement of the apportionment would prove inconvenient to that State, and he found that the time of completing the census, and making returns, was extended to June next.

Mr. STORRS explained. The instructions from the Department of State to the marshals were limited to the 1st of December for making their returns of the enumeration. The instruction was such a one as no clerk in the

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*The Impeachment.—Railroad from Baltimore to Washington.*

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department ought to have taken upon himself to issue; because, although the law itself made that limitation the instruction from the department, the deputy marshals would probably not have discontinued the enumeration, as appears to have been the case, when it was discovered that it could not be completed within the precise time fixed by the act. Having been informed by the clerk in the department having charge of the business, that no return would be received after the 1st of December, the deputy marshals had ceased the enumeration at that time; so that the Secretary of State must now have time to communicate with those marshals before they will resume the enumeration. In regard to the apportionment of representation under the new census, this bill ought not to interfere with or delay that object at all. In 1820, the returns were not entirely complete, yet the apportionment was fixed, so far as the returns were received; and afterwards, when the additional returns from Alabama came in, a supplemental law gave that State the benefit of it. Mr. S. said he should, in a very few days, move to take up the apportionment bill, which should be passed at an early day, or the delay might produce to some of the States the inconvenience of an extra session of their Legislature, to arrange their representation under the new apportionment.

Mr. WHITTLESSEY moved to strike out of the bill the following words: "unless their returns shall be made within the time prescribed by this act;" but the amendment was opposed by Mr. STORRS, and was negatived.

On motion of Mr. BAILEY, the following additional proviso was added to the bill:

*"And provided further, That no person be included in the returns made under the present act, unless such persons shall have been inhabitants of the districts for which such returns shall be made on the 1st day of June, one thousand eight hundred and thirty."*

Thus amended, the bill was ordered to be engrossed for a third reading to-morrow.

#### THE IMPEACHMENT.

The House then proceeded to reconsider the resolution submitted by Mr. HAYNES on the 23d ultimo, relative to attending the trial of the impeachment of Judge Peck.

Mr. WILLIAMS called for the yeas and nays on the question of its adoption, and they were ordered by the House.

The question was then put on the adoption of the resolution, and was decided in the negative—yeas 69, nays 118.

Mr. JOHNS submitted the following:

*Resolved, That a message be sent by the Clerk of the House, informing the Senate that the House of Representatives decline further attendance during the trial of the impeachment of Judge Peck.*

Mr. DRAYTON moved to add to the resolution the words, "until further notice;" which

Mr. JOHNS accepted as a modification of his motion.

Mr. BUCHANAN said that he was opposed to the phraseology of the resolution, though he was not prepared to supply, at the present moment, what he should consider to be proper. Something like this, he thought, would be correct: That notice be sent to the Senate that the House had rescinded the resolution formerly adopted by it, by which it had agreed to attend the trial of the impeachment of Judge Peck. To send such a resolution as that proposed by the gentleman from Georgia, would be to tie up their hands. Though all along opposed to the House attending the trial, yet he thought the resolution offered an improper one. After a few further remarks, Mr. B. said that no gentleman would hereafter offer a resolution to attend the trial, unless something of interest was likely to take place. He hoped that the resolution would be amended something in the manner he had suggested.

Mr. DRAYTON said that it appeared to him that the observations of the gentleman who had just sat down were at variance with the object he appeared to have in view. If the course suggested by that gentleman should be adopted, the Senate would be led to believe the House did not again intend to be present during the trial. If the resolution proposed by the gentleman from Delaware, as amended, should pass, then it would be in the power of the House at any time to attend, and the Senate would consider that it had not abandoned the trial. He expressed his preference for that resolution. He had been in favor of the resolution first offered by the gentleman from New York, [Mr. HOFFMAN,] proposing that the House should attend at the opening and closing of the trial; he now hoped that the resolution on the table would prevail.

Mr. HAYNES would say nothing of the departure from precedent, nor of the manifest inconsistency of the House. He hoped it would hereafter act with more consistency, and he suggested to the gentleman from Delaware to strike out the words "until further notice."

Mr. JOHNS not consenting, Mr. H. made that motion.

Mr. STORRS, of New York, briefly addressed the Chair. He considered that the passage of the resolution would be an indirect way of abandoning the impeachment. The House, by its vote of to-day, had determined that it would not attend the trial; but he wished the Senate to be notified of the intentions of the House by a proper message. He should vote against the amendment, with a view of submitting a motion to strike out the whole of the resolution after the word "Resolved," and insert an amendment.

The question was then put on striking out the words "until further notice," and determined in the negative.

Mr. STORRS then moved to strike out all after the word "Resolved," and to insert—

*That the managers appointed to conduct the impeachment of James H. Peck be instructed to attend the trial of the said impeachment, at such times as the Senate shall appoint for that purpose; and that the attendance of the House be dispensed with until otherwise ordered by the House; and that the Clerk communicate this resolution to the Senate.*

Mr. JOHNS had no objection whatever to the amendment. His sole object was to give notice to the Senate of the course which the House had taken. He accepted it as a modification.

Mr. DRAYTON asked if there was not already a separate resolution, passed by the House, instructing the managers, to the same effect as the above.

The SPEAKER answered in the negative.

The question was then put on the adoption of the resolution as amended, and decided in the affirmative, without a count.

#### RAILROAD FROM BALTIMORE TO WASHINGTON.

The bill authorizing the construction of a lateral branch of the Baltimore and Ohio railroad to the city of Washington, came up for consideration; when

Mr. SEMMES submitted the following amendment:

Sec. 1. *And be it enacted, That the said road shall be located over such ground, and have such course and direction, as engineers, authorized and appointed by the Government, shall determine and advise.*

Sec. 2. *And be it enacted, That the said company shall not make any higher charges for tolls on transportation on any part of the road to be constructed between Baltimore and the District of Columbia, than are allowed by law for tolls and transportation from west to east, on the Baltimore and Ohio railroad, except as authorized by the second section of this act.*

Sec. 3. *And be it enacted, That unless the said road be-*



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tween Baltimore and the District of Columbia is commenced within one year from the passage of this act, and finished within three years thereafter, this act, and all the privileges which it confers on the Baltimore and Ohio Railroad Company, shall cease, and be entirely void and of no effect.

Mr. SEMMES said, it became his duty, as one of the Representatives of Maryland, which has so deep an interest in the proposed measure, to make a few brief remarks in support of the amendment he had offered. Not anticipating that this bill would be called up to-day, said he, I regret that I have not had time for reflection, which would enable me to do that justice to the subject which its great importance demands.

This is a great national work, one which is to affect the interest of the whole United States, and therefore demands our most serious consideration; and it becomes the duty of Congress, whilst it has the power, to bestow that attention which will enable us to protect and promote the interests of the whole country.

The construction of works of this character may, in common cases, be safely confided to the discretion of the corporation which has charge of the undertaking, because their private and individual interest is, generally speaking, the surest guaranty of their fidelity; but the case now under consideration forms an exception to this general rule. The work in question is of great national importance, and promises to be one of the most profitable investments of money that can be made any where in this country; whilst many rich and powerful persons, with great resources and influence, and having opposite and conflicting interests, are engaged in it, and have the control of the corporation which is to construct it: for these gentlemen, personally and individually, I have great respect, and would as soon confide in their integrity and disinterestedness, as in those of any other company in existence; but, under existing circumstances, it becomes the duty of Congress, as the guardians of the public welfare, to give such a direction to the proposed improvement as will effectually promote the public interest.

The amendment I have offered, embraces three distinct propositions. The first is, that the road shall be made in such manner and over such ground, and in such course or direction, as engineers appointed by the Government of the United States shall advise and determine. To this proposition, I presume there can be no objection: because the United States' engineers have been largely employed in locating the main track of the Baltimore and Ohio railroad, and may safely be trusted with the location of this lateral branch, whilst the peculiar circumstances of the case under consideration render such a provision indispensably necessary. The tribunal which is to decide on the location of this great and important national road, ought to be placed above the reach and even above the suspicion of local feeling and private interests, more especially since there are so many conflicting and opposing interests engaged in the undertaking. Take, for example, the Baltimore end of the proposed road; three different routes are spoken of, and all have powerful support from the individuals whose local and private interests are to be affected by it.

The first of these routes, the one which is supposed to be the most direct, will cross the Patapsco river at Elkridge landing, at or near Smith's bridge; the second will cross the river at the Patterson viaduct, and the third will pass by Ellicott's mills. Which of these routes ought to be preferred, I am unable to say; there is a strong party in favor of each one, and, no matter which is selected, there will be much dissatisfaction and complaint, unless the selection be made by some independent and impartial tribunal in whom all have confidence. Such, I suppose, we may consider a board of engineers appointed by the President of the United States. This appears to be almost the only security we have that the location will be made

with a view to the public good, and the public good only. Again, let us look at the District end of this road, and here we find the same kind of difficulties and embarrassments. Whether the road will enter Georgetown or Washington, or at what point of either city it will enter, is a matter of doubt and uncertainty. There are several practicable routes, all of which have their advocates; and at present it is uncertain whether the road will diverge to the west, and pass through Anne Arundel and Montgomery to Georgetown, or whether the facilities for construction are such as to permit it to proceed in nearly a direct line to this city, where, in my humble opinion, it ought to come, if practicable; but of one thing we are certain, that each interest will endeavor to have that route selected, which will best promote its own particular views. Such, sir, is the nature of man, and we may talk as much as we please about patriotism and disinterestedness, but self-interest is the great moving principle which governs mankind, and most of us will obey its impulses.

I confess that I do not even pretend to rise above this feeling, but, like other men, am anxious to promote what I believe to be the best interests of those who sent me here. I believe that, on examination by competent persons, the most advantageous route will be found to pass through the very heart of my district, and will advance the local interests of my constituents; believing this, as well as for general reasons of a public nature, I am anxious that an impartial and independent tribunal, which has no local interests or local feelings to gratify, shall designate the route; and if I am disappointed, I will most cheerfully submit, and I risk nothing in making the same pledge for those I represent. The House will perceive by the bill, that this road is also intended for the transportation of the United States' mail; this increases the interest of the Government in the undertaking, and is a strong argument in favor of the amendment I have offered, because, if it be intended for a mail route, the saving of a few miles is of immense importance.

The second proposition is, that there shall be no higher charges for tolls or transportation than are allowed by law to the Baltimore and Ohio Railroad Company for tolls or transportation from west to east. This requires some explanation. By the charter of the Baltimore and Ohio Railroad Company, different rates of toll are allowed. From west to east, they are limited to one cent a ton per mile for toll, and three cents a ton per mile for transportation, while, from east to west, they have the power to charge three cents a ton per mile for toll, and the same for transportation—making an average difference of fifty per cent. This was right and proper in the original charter. The work is the most splendid and important of any thing of the kind, of which we have any account, requiring great resources and much risk, and, after all, could only be regarded at the time as an experiment of doubtful character. Under these discouraging circumstances, it was necessary to grant a strong and liberal charter, holding forth great inducements to men of capital and science to embark in the enterprise; whilst the great difficulties to be encountered in making the road from Baltimore to the Ohio, and the large expenditure necessary to procure the engines, vehicles, and other fixtures, to transport heavy articles up a continued ascent over the mountains, induced the Legislature of Maryland to grant this additional fifty per cent. as a fair remuneration for the additional trouble and expense. But similar reasons do not now exist. The proposed road will pass through comparatively a level country. The expenses of construction will be moderate, and the necessary vehicles and propelling power can be easily and cheaply obtained; therefore, the lowest rate of tolls and transportation allowed to the Baltimore and Ohio Railroad Company will be an ample remuneration for the money and labor expended, and will render this the most valuable investment now to be made in the United States,

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*Assay of Gold.—Question of Order.—Illinois Canal.*

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The travelling on this route is already immense; and when the Chesapeake and Ohio canal is completed, and this District filled with a population probably greater than that of the city of New York, the travel and transportation will so greatly increase, that I know of no improvement of the kind, that is likely to prove so valuable to the proprietors.

The third proposition which I have submitted, directs the time when the road shall commence and be completed; and provides, that all the rights and privileges conferred by this bill shall be forfeited by non-compliance. It may appear rather invidious to place the company under this restriction, and I would not do so, if I did not believe that such a course is strictly correct, and not only correct, but due to the best interests of the country.

This contemplated road is a great public highway, of importance to the whole country, and ought to be constructed as soon as possible for the public convenience; at the same time, it holds forth great advantages to the proprietors. It is right and proper that the Baltimore and Ohio Railroad Company should have the power to construct it if they please. They are the pioneers in this valuable species of internal improvement, which is likely to produce an entire change in our internal commerce, and even to change the face of the interior of the whole country. Their public spirit and enterprise have seldom if ever been equalled, and never surpassed; and they have embarked their private fortunes to a very large amount, in what at the time was considered but at best a doubtful experiment; and they have zealously and ably pushed forward this great work, till success is no longer doubtful: but although it will prove a blessing to the country at large, such have been the almost insurmountable difficulties they have had to contend with, and so great the expenditure of money, which is usually the case with a first undertaking, that it is doubtful whether it will prove profitable to the stockholders. For these reasons, sir, when we are now about to construct an addition to this great work, we ought, as liberal and generous representatives of the nation, to confer the power on the same company, who have acted as pioneers in the great undertaking, in order that the certain profits which will arise from the one work, may remunerate any losses which they may suffer by the other, which, whether it prove profitable or unprofitable to the stockholders, will certainly, when completed, and I consider that now certain, prove a national blessing. But still this amendment is necessary. Some unforeseen occurrence may prevent the construction of this road by the Baltimore and Ohio Railroad Company; if such should unfortunately prove to be the case, we ought to reserve the power, and, after a reasonable time, confer the same privileges on some other company, that will speedily construct the work; and there is no danger, even if it becomes necessary for the Legislature to create a new corporation for the purpose, but that the whole subscription can, at any time, be obtained in the city of Baltimore, in twenty-four hours. Money is cheap and plenty—it is difficult to find profitable investments, and this scheme, as I have before stated, promises to be very profitable, and will be eagerly sought after.

#### ASSAY OF GOLD.

Mr. CARSON offered a resolution providing that a committee be appointed to inquire into the expediency of establishing an assay office in the gold regions of North Carolina.

Mr. FOSTER suggested that Georgia also should be added to the resolution.

Mr. CARSON said perhaps it would be better to say "the gold regions in the South."

Mr. HAYNES thought that rather too extensive a range.

Mr. BLAIR, of South Carolina. We can find a little gold in our State. Suppose we add South Carolina, too.

The resolution was finally adopted, with the terms, "gold regions of the South;" and the number of the committee directed to be five.

The special order of the day having been announced, Mr. VERPLANCK moved that they be postponed, with a view of going into Committee of the Whole on the state of the Union, to take up certain appropriation bills, which it was of importance to pass.

#### QUESTION OF ORDER.

The motion was agreed to, and the House went into Committee of the Whole, Mr. POPE in the chair, and took up the bill "making appropriations for carrying into effect certain Indian treaties."

No amendment being offered to the bill, it was laid aside, and the committee then took up the bill for closing certain accounts, and "making appropriations for arrearages in the Indian Department."

Mr. VERPLANCK stated the object of the bill; and no amendment being offered, the committee was about to rise; when

Mr. HOFFMAN moved to take up the bill to authorize the construction of three schooners for the service of the United States.

The Chairman decided that the motion was not in order.

Mr. HOFFMAN said that when the House was in Committee of the Whole on the state of the Union, any bill might be called up which had been referred to it, and he thought his motion in order.

The SPEAKER rose, and sustained the Chair in its decision. The special orders of the day had been postponed for the purpose of going into Committee of the Whole, to take up certain bills. They had been acted on, and the committee should now rise.

Mr. VERPLANCK stated distinctly the motion he had submitted; and the Clerk read the entry he had made on his book.

Mr. HAYNES appealed from the decision of the Chair, and addressed the committee at some length in support of his appeal, and what he considered the proper course.

Mr. HOFFMAN withdrew his motion; but

Mr. HAYNES insisted on his appeal from the decision of the Chair.

The SPEAKER said that, as the motion had been withdrawn which gave rise to the appeal, the appeal fell of course.

The committee then rose, and reported the two bills, and they were ordered to be engrossed for a third reading to-morrow.

#### ILLINOIS CANAL.

The bill "authorizing a change in the disposal of land granted for the Illinois and Michigan canal" was next taken up.

The report of the Committee on the Public Lands in the case having been read,

Mr. MCCOY said, that when the land on each side of the proposed canal was granted, some years ago, it was stated to be very valuable; now, it was discovered not to be so good as was expected. The land certainly was not worth one dollar and twenty-five cents per acre, and yet it was proposed by the bill to take it back, and give scrip for it, which would purchase good land. He was unwilling that the House should pass the bill, and thus sanction a measure which he [Mr. McC.] could not approve.

Mr. IRVIN, of Ohio, (in the absence of the chairman of the committee,) stated the object of the bill. He said, that, about the year 1822, a survey was made by order of the State of Illinois, of the country lying between Chicago, on the southerly bend of Lake Michigan, and the head of steamboat navigation on the Illinois river, and that the country between those places was found to be well adapted for canalling—the distance from ninety to one hundred

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miles; and the cost of construction about seven hundred thousand dollars. In the year 1822, and previous to the survey made by Illinois, Congress, impressed with the importance of the work, passed an act giving authority to that State to construct the canal through the public lands, and reserved from sale ninety feet of land on each side of the canal for the use of the State. In the year 1827, another act was passed by Congress, giving to the State of Illinois, for the purpose of aiding the State in opening the canal, a quantity of land, equal to one-half of five sections in width on each side of the canal.

The Committee on the Public Lands, at the last session of Congress, considering the immense advantages that must result to the United States by the completion of the proposed improvement, reported the bill now under consideration. It proposed the issuing of scrip, upon a surrender of the land which had previously been granted to the State of Illinois; but to guard against the improper use of that scrip, but fifty thousand dollars could be issued at any one time; and it was made the duty of the Secretary of the Treasury of the United States, before he issued a further quantity of scrip, to satisfy himself that the previous grant had been exclusively expended in the construction of the canal. The bill, in fact, proposed an exchange of scrip for land, and, if the work was successfully prosecuted, it would increase the value of the lands in its vicinity, and the United States might be greatly the gainers in the end, even if it were considered a mere matter of speculation.

The subject was to be viewed in another light: the canal once completed, it would lead emigrants to take that direction, to settle the vast tracts of uncultivated land in that section of the country. There were, perhaps, not less than thirty to thirty-five millions of acres in Missouri; not more than a million and a half of which probably had been sold. In the State of Illinois, an immense proportion of the public domain was yet undisposed of; and in that part of the Michigan Territory, commonly called the Huron country, the Government held lands to an unknown extent. Without this improvement, the settlement of this vast tract of country would be retarded; but let the canal be once completed, and the spirit of enterprise would be seen extending itself in that direction, and numberless emigrants would pour into the country. If we add these advantages to the increased value of the land in the vicinity of the proposed work—if the gentleman from Virginia went upon the calculation of pence and farthings, here was to be realized a great gain. From Sackett's Harbor to the southerly bend of Lake Michigan, there was a continuous intercourse of about eleven degrees of longitude through the Northern and Northwestern lakes; on the southern shores of which, the lands were of good quality, the settlement of which was rapidly increasing; and the day was not distant, when trade would be carried on in that section of the United States to a great extent. It was but a few years since there were but two or three vessels engaged in the trade of Lake Erie, and, from information received from an honorable member from Pennsylvania, some seven or eight steamboats, and probably not less than one hundred and fifty brigs and schooners, were now engaged in the trade of that lake. If the waters of Michigan were united with those of the Mississippi, it would be matter of incalculable importance in both a military and commercial point of view. Under these considerations, he was surprised to find the venerable member from Virginia opposed to the passage of the bill. The object of the bill was a national one, and he hoped the House would give it its sanction as such. Let not the object be considered in the light of a bargain, but let the bill be supported with more noble views.

Mr. MARTIN, of South Carolina, said it was not the first time the gentleman from Virginia [Mr. McCox] had placed the House under obligations by calling their attention to bills of this character, and he for one would tender

him his acknowledgments for the present service. Very few words of explanation, he said, would place the House in possession of all the facts necessary to a proper understanding of this subject, and very little else than such an understanding, he flattered himself, was necessary to defeat this bill.

Some years ago, he said, Congress, on the application of Illinois, showing the great importance of a canal uniting the Illinois river with the waters of Michigan, granted to that State three hundred thousand acres of land in alternate sections, lying on either side of the proposed canal, to enable the State to construct it. What progress has been made, if any, in the execution of the work, we are not informed, nor is it very material to this investigation. But after the lapse of several years, and after a sale of part of the land, he would not say the best of it, for he was unacquainted with the quality of any of the land granted, (on that point all would draw their own inferences,) we are told the balance of the land is unsaleable, the grant, in fact, valueless, and the canal cannot be constructed for the want of funds. The object of the bill, therefore, is, that the Government shall take back the land at one dollar and twenty-five cents per acre, to be paid, to be sure, in scrip, issued by the Government, which is to be receivable at the land offices for debts due on purchases of public lands instead of cash. These are the facts, and such are the objects of the bill.

He would not animadvert on the novelty of the proposed scheme—one which, he believed, was without precedent in this country, under similar circumstances. It is enough that there are other objections to it. The argument most relied on, is, that when the canal shall have been completed, and some say as soon as it is commenced, the lands of the United States, on its borders, will be increased several hundred per cent. in value; that it will, therefore, be a positive and specific benefit to the Government. Sir, the very same argument was urged when the grant of the land was sought; and it has been used in this House in every instance where a similar application has been made. The alternate sections reserved by the United States, we were told, would be so much increased in value by the canal, that the United States were to be gainers and not losers by the donation. These arguments have been found to be fallacious. With all the advantages anticipated, and all the ideal value attached to these lands, by the intended canal, Illinois has not been able to dispose of them at the lowest Government price. If they will become so valuable, it is important to the State to retain them: this bill will do the State great injustice, by a recession of them. It may sometimes happen, but instances are rare, that both parties to a contract realize profits. The United States have now more lands than they can sell. You have no use for the money arising from the sales of the public domain, in the opinion of some gentlemen; and you have now a bill on your table to appropriate the proceeds to the purposes of education among the several States. And yet this bill is to make the Government a buyer instead of a seller of lands: a buyer, too, of lands, not at their value, but at a certain fixed price, when no one knows whether they be worth a fourth of the sum. Gentlemen must anticipate—they cannot but foresee, to what the passage of this bill will lead. From every quarter where grants of this description have been made, and the grantees have not realized the amount they had hoped for, applications of the same kind will be made. Some, for the whole amount in money, [not in scrip, as in the present instance,] and others, that you will give them money for all lands which, by reason of its sterility, or its local situation, they have been unable to sell. There is no claim on our justice in this application—there is less on the liberality of the House.

Mr. MARTIN said he had purposely avoided saying any thing on the policy or impolicy of the original grant. His

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opinions were known on such subjects. Nor would he call in question those rights which most, if not all, would admit were vested in the grantees. He assented to their enjoyment, such as they were; but he, for one, would not fix an additional charge on the country, and strike out a new policy, for the purpose of extending to them additional favor.

Mr. DUNCAN said, in reply to Mr. MARTIN, that it was true the bill proposed an exchange of the lands for scrip, which was equal, or nearly equal to cash. He thought, too, as strange as the reasoning appeared to that gentleman, that it was susceptible of proof, that both parties will be benefited by the passage of this bill; taking it for granted that the United States has a deep interest in the construction of this great work, or Congress would not have made the grant of land in question. It only remains to be shown, that the donation, or appropriation, cannot be used without great loss, and that the State has not resources to progress in the work without this assistance. To satisfy gentlemen of the propriety of the bill before the House, Mr. D. said, before he proceeded, he would say to the gentleman from Virginia, [Mr. McCox,] that he had the best authority for saying that the whole of the land proposed to be surrendered was of good quality, and not such as he imagined it to be. Mr. D. said that an unsuccessful attempt had been made to sell the land, but the failure to sell was not on account of the quality of the soil, or the situation of the land, but it was owing to the fact of there being no encouragement held out to settlers to go on and improve it, or the United States' land in the vicinity. He said, this land was not as favorably situated in that respect as the other public lands, for it was reserved from sale by law, and of course no one would venture to settle on or improve land, without a hope of ever owning it. Mr. D. said, gentlemen in this House appeared to think that all lands of equal quality and situation ought to sell for the same price, but in this they were greatly mistaken. He said that improvements and good society gave value to land; if that was not the case, he asked, why were not all the wild lands already sold? Mr. D. said he had heard much said against the squatters, as they are called, on the public land, but he did not hesitate in affirming that they had been the means of selling nine-tenths of all the land that had been sold by the Government. He said that it was the hardy, enterprising, poor man that first ventured into the wilderness, and suffered all the privations and dangers incident to such an enterprise, who, acting as pioneers, were followed by the more fortunate or wealthy, and too often deprived by them of their homes, and driven further and further into the woods. Mr. D. believed that the lands would increase greatly in value, whenever the work was done; but he knew the State had no means of effecting it, without a sale of them, unless this bill should pass; and if they were sold at a low price, (and he believed they could not be sold for any other at present,) he was fearful the canal would not be made for many years. Mr. D. asked if it would be consistent with sound policy, or any principle of political economy, for Congress to permit such a result, when it would be so easy to prevent it without loss, to say the least of it; but, for his part, he believed that the General Government had all to gain, and nothing to lose, by the provisions of this bill; by its passage, the funds or lands appropriated by the Government will be rendered available, and the State will be able to accomplish the work in a very few years.

Mr. D. went into a lengthy argument to show the advantages of this canal in increasing the value and sales of the public lands; all of which, he said, for near fifty miles south, and for an immeasured distance north, was still the property of the United States, and had not even been brought into market. He said the report which he submitted with the bill gave a description of the canal, and

showed not only the practicability of making it, but the vast importance of it in a national point of view. He said that there never was a work of internal improvement in any country, which promised so great a benefit at so small an expense. He said that it would at once open a free commercial intercourse from New Orleans to New York and Quebec, a distance of more than two thousand five hundred miles, passing through the most fertile country in the world, and through every climate which is found between the poles, from north to south.

Mr. VINTON was desirous to vote for the bill, and stated that the difficulty under which he labored was not such as had been stated by the gentlemen from Virginia and South Carolina. The amount of scrip on lands proposed to be given was nothing in his way—he would willingly give double. His great objection was, that it would be a sacrifice of the fund; for he was confident that the lands would all go into the hands of speculators. The bill proposed virtually to buy three hundred thousand acres of land of the State of Illinois, and give her scrip for it, with which she could go into the market, and purchase the best of lands. The country was a wilderness: the poor or middling men, as they would not receive cash for their labor, but scrip, would never be able to enter into contracts for constructing the work, and of consequence the contracts would all be taken by wealthy speculators, who could afford to carry on the work, and lay out of their money for a time. Hence it would result that the whole competition would lay between these wealthy speculators; and as the job would not, as he had said, be a cash one, it would cost eight or ten thousand dollars to complete one section, (while for cash it might be done for one-fourth that amount,) and eventually all the lands would come into the possession of the men to whom he had alluded. After some further remarks elucidatory of his views, Mr. V. said, that, if the bill could be thrown into a shape to obviate his objections, he would cheerfully vote for it.

Mr. MERCER then took the floor, and in a speech of some length replied to the objections raised by the opponents of the bill. He concluded by moving to amend a proviso of the bill; (the exact motion our Reporter could not obtain;) when,

On motion of Mr. CLAY, who wished to give further time for the examination of the subject,

The House adjourned.

WEDNESDAY, JANUARY 5.

Mr. TUCKER submitted the following resolutions, which he intended to offer as an amendment to the joint resolution reported by Mr. McDUFFIE, to amend the constitution of the United States, when that resolution shall come up for consideration:

*Resolved*, That no person who shall hereafter be elected President of the United States, and who shall accept the same, or exercise the powers thereof, shall be again eligible to said office.

*Resolved*, That any person who shall be elected President of the United States after the 4th day of March, 1833, shall hold his office for the term of five years.

#### PAY OF MEMBERS OF THE HOUSE.

Mr. CHILTON, of Ky. submitted the following resolution:

*Resolved*, That the Committee on the Public Expenditures be instructed to inquire into the expediency of adopting some regulation by which members of each branch of the National Legislature shall receive the allowance of eight dollars per day only for the number of days of each session on which they shall have been in actual attendance upon the service of the House to which they may belong—unless absent by reason of sickness, or by leave of the House, or when the same shall not be in session.

Mr. CHILTON said that, in offering this resolution, he felt himself placed in circumstances of peculiar delicacy as

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to particular facts which might appear to him to have called for such an inquiry as it proposes. But the foundation of principle on which he bottomed it, was one which he could submit to the House without the least reserve or delicacy. Mr. C. then quoted from the rules of the House the fiftieth rule, which is in the following words: "No member shall absent himself from the service of the House unless he have leave, or be sick and unable to attend." Under this rule of the House, it was obviously as much the duty of one member as of another, and equally the duty of all, to be in attendance, unless when absent by reason of sickness or by leave of the House. Mr. C. said, he designed not, so far as it operated on the legislation of the House, to give to the proceedings under this resolution a retrospective operation. If it has been the practice of any member of this House, or of the other House, to absent himself from the House without leave of the House, and without being detained therefrom by sickness; and if, while attending to private business of his own, he has been receiving the same pay as those who were constant in their attendance on the House, then, said Mr. C., I should consider such practice not only a violation of this rule, but a direct violation of duty. Mr. C. adverted to the difference of situation of members of this House from different parts of the country. Gentlemen from the West were far distant from the endearments of home, and, if they were professional men, from the courts which they were accustomed to attend. They cannot take horse, or any other convenience for travelling, and go from this House to attend their courts. No, sir, whilst others may do this, they are left here to attend upon the business of the nation, until the termination of the session enables them to return home, and they are entitled for so doing to the compensation which the law allows. But, if the case should ever occur of members absenting themselves from the House, attending to private business, it is wrong that they should receive compensation as though they had been in regular attendance. Mr. C. said he was not apprehensive that, in what he proposed, he should wound the feelings of any gentleman, for he asked no more of any member than what the rules of the House already peremptorily require of him, it being his bounden duty to attend the House regularly from the moment that he accepts a seat in it. If he absents himself from the House, he surely cannot expect compensation for services which he has not rendered. I presume, said Mr. C., that no gentleman on this floor will hazard his reputation by saying that it is right in any member, contrary to the rule, to absent himself, and yet receive compensation for the time during which he has been attending to his own private business. If one member may absent himself without leave, so may another; for all have equal rights. If this course were indulged in by all, I ask if it would not put a stop to legislation. My duty to my country, sitting here and legislating under the solemn sanction of an oath, is to see that every member performs his duty, whilst I endeavor to perform my own. I should do an act of violence to my own conscience were I to remain silent whilst abuses of this kind are tolerated.

Mr. STERIGERE moved to lay the resolution upon the table. And upon this question the yeas and nays were demanded by Mr. CHILTON, which being ordered by the House, Mr. STERIGERE withdrew his motion; and the consideration of the resolve proceeded.

Mr. WILLIAMS, of North Carolina, inquired whether the rule proposed to be adopted by the resolve was not the same as that which is already in operation?

The SPEAKER said, that when a member of the House is absent on leave, his attendance ceases to be charged. When members are absent without leave, no account is taken of such absence, every member being presumed to be present unless absent from sickness or on leave. By the seventy-third rule it is made the duty of the Commit-

tee of Accounts, and not of the Speaker, to audit the accounts of the members for their travel to and from the seat of Government, and their attendance in the House.

Mr. CARSON, of N. C., inquired of the Chair what would be the precise effect of the resolution, if passed?

The SPEAKER said, it proposed, in its present shape, an inquiry only.

Mr. BARRINGER suggested the propriety of amending the resolution so as to conform to the present practice of withholding pay from such members as are absent on leave.

Mr. WHITTLESLEY suggested a different modification, by inserting after the words "by leave of the House," the words "on business of the House."

Mr. CHILTON agreed to this modification, accepting it as a part of his motion.

Mr. CARSON wished to know what would be the difference between the effect of this resolution and the existing rule?

The SPEAKER said that each gentleman must decide that for himself, by comparing them.

Mr. THOMPSON, of Georgia, did not know but there might be good ground for the complaint presented by the gentleman from Kentucky. He was himself of opinion, with the honorable mover, that members ought to be punctilious in their attendance. To carry this principle fully out, Mr. T. suggested to the gentleman to amend his proposition so as to require all members who have absented themselves to refund whatever compensation they might have received for time during which they were not in attendance. If the principle was correct, it should operate throughout.

Mr. CHILTON said that, for himself, he felt no scruple in regard to the amendment suggested; for he could confidently say that he had not been absent from the House for a single day, except when detained from it by sickness. But the subject was, he repeated, a delicate one; he thought his resolution went far enough. But, if the gentleman from Georgia inclined to go further, he would suggest to his honorable friend, in return for his suggestion, that he should move to amend the resolution accordingly.

Mr. THOMPSON declined to move any amendment to the resolution.

The question was then taken on agreeing to the resolution, and decided as follows:

YEAS.—Messrs. Alexander, Anderson, Angel, Armstrong, Arnold, Bailey, Noyes Barber, Barnwell, Barringer, Bartley, Baylor, Bell, James Blair, John Blair, Bockee, Boon, Brodhead, Brown, Butman, Cahoon, Cambreleng, Campbell, Chandler, Chilton, Claiborne, Clay, Clark, Coke, Conner, Cooper, Cowles, Crane, Crawford, Crockett, Creighton, Crocheron, Crowninshield, Daniel, Davenport, John Davis, Warren R. Davis, Denny, Desha, De Witt, Dickinson, Dorsey, Draper, Drayton, Duncan, Dwight, Eager, Earle, Ellsworth, Joshua Evans, Horace Everett, Findlay, Finch, Ford, Forward, Foster, Gaither, Gilmore, Gordon, Green, Hall, Halsey, Hammons, Harvey, Hawkins, Haynes, Holland, Hoffman, Hubbard, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, Jarvis, Johns, Richard M. Johnson, Cave Johnson, Kendall, Kennon, Kincaid, King, Lamar, Lecompte, Leiper, Lent, Letcher, Lewis, Loyal, Lumpkin, Magee, Marr, Martindale, Martin, Thomas Maxwell, Lewis Maxwell, McCree, McCoy, McIntire, Mercer, Monell, Muhlenberg, Nuckolls, Patton, Pearce, Pettis, Polk, Potter, Powers, Ramsey, Randolph, Reed, Rencher, Richardson, Roane, Russel, Sanford, Scott, William B. Shepard, Augustine H. Shepperd, Shields, Semmes, Sill, Smith, Speight, Spencer, Sprigg, Standefer, Sterigere, William L. Storrs, Swann, Swift, Taliaferro, Taylor, Test, Wiley Thompson, John Thomson, Tracy, Trezvant, Tucker, Vance, Varnum, Verplanck, Washington, Wayne, Weeks, Whittlesley, Campbell P. White, Williams, Wilson, Wingate, Vancey, Young.—157.



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NAYS.—Messrs. Allen, Alston, Archer, John S. Barbour, Beckman, Bouldin, Carson, Coulter, Dudley, E. Everett, Gorham, Hinds, Hodges, Howard, W. W. Irvin, Lea, Norton, Pierson, Vinton, E. D. White, Wilde.—21.  
So the resolve was agreed to.

Mr. JOHNSON submitted the following:

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of amending the act of Congress, passed at the last session, entitled "An act for the relief of certain officers and soldiers of the Virginia line and navy of the continental army, during the revolutionary war," so as to change or alter the first section, as not to require evidence as to the line on which the resolution warrant of Virginia issued: also, to amend the third section, so as to embrace cases where warrants have been located and surveys or patents prohibited by law, by which the land is lost to the locator: also, to cases of surveys or patents, where, by the highest judicial tribunal of the State, or United States, the land has been taken by a prior or better claim: also, to provide for the renewal of lost or destroyed certificates or scrip: also, to change the maximum quantity of land allowed to be appropriated by the said act to supply the claims embraced by said act: lastly, to make such alterations as the said committee may consider just and equitable.

Mr. HAYNES said that the resolution appeared to be of an important nature. He certainly was in favor of a part of it, and perhaps, on examination, he should be of the whole. To give time for a proper examination of the subject, he requested the gentleman from Kentucky to consent that the resolution be laid on the table till to-morrow.

Mr. JOHNSON making no objection, the resolution took that course.

#### ILLINOIS CANAL.

The House then resumed the consideration of the bill "authorizing a change in the disposal of land granted for the Illinois and Michigan canal;" the question being on the adoption of an amendment yesterday submitted by Mr. MERRICK.

Mr. M. withdrew his motion to amend; and

Mr. IRVIN, of Ohio, submitted the following amendment, which he accompanied by a few remarks:

"And provided, also, that said State shall, in every instance of the application of scrip, apply an equal sum of money from its own funds, or from funds raised by its own authority, to the construction of said canal, of which fact the Secretary of the Treasury of the United States shall be satisfied, before a new issue of scrip, under the provisions of this act."

The amendment was read, and agreed to.

The question then recurring on the engrossment of the bill,

Mr. MCCOY, of Virginia, said he had offered a few suggestions to the House yesterday, and he would submit a few more to-day. He looked upon this bill as a kind of pioneer, calculated to open the way for similar provisions in favor of other States. The State of Illinois was very ingenious. She wished the United States to take back the refuse land which had been granted her, at the rate of \$1 25 per acre, while, at the same moment, she was petitioning the House to reduce the price of the public lands to seventy-five cents per acre. It was well known that grants had been made to Alabama, Indiana, and Ohio, as well as to Illinois, for the purpose of constructing roads and canals. If this bill should pass into a law, he presumed we could not refuse to pursue the same course towards those States, should they require it at our hands. He felt no disposition to disturb the State of Illinois in her possession of the lands which had been granted to her, but he could not help declaring that he thought it too bad for that State to ask the Government to take back the refuse part of them. Mr. McC. said he had hoped that the pre-

sent session of Congress would have been allowed to pass away, without the introduction of bills for constructing roads and canals. He had hoped that the House would have passed upon the numerous claims against the Government, and been suffered quietly to attend to matters of general interest to the nation. But he had been deceived: it seemed the House was never to be left at peace—the rage for internal improvement seemed to be as great as ever, and, while this was the case, there would be no peaceable legislation. He had not, however, risen to make a speech; he would take his seat, but he hoped the bill would not pass.

Mr. DUNCAN next rose. He commenced by refuting the idea that the lands which the State wished to recede were refuse lands. He thought the best argument he could offer against the gentleman's assertion, that the lands were of an inferior quality, would be, to read a letter from Doctor William Howard, the engineer who surveyed the route of the proposed canal. [The letter was read by the Clerk: it gave a description of the soil, the quality of the timber, &c. &c.] Mr. D. then made some remarks relative to the importance of the work, and requested the reading of a letter from General Gratiot, the Chief of the Engineer Department, in favor of the proposed work. [This letter was read also.] Mr. D. said he did not wish to trouble the House with any further remarks upon the question now before it. Those which he had delivered on the previous day were fresh in the recollection of gentlemen, and they were sufficient for his purpose. He was only sorry that any observations from the gentleman from Virginia had made it his duty to trouble the House further upon the subject.

Mr. BELL addressed the House at some length in support of the bill. He was desirous to give some explanation of the reasons which induced him to vote for the bill: for he should do so, and one reason was, because its passage would violate no constitutional principle. Nor did he believe it would ever be brought into precedent, as had been suggested by the gentleman from Virginia, by similar applications from Alabama, Indiana, and Ohio, the States named by that gentleman as those to whom public lands had been granted for the purposes of internal improvement. From all he could gather on the subject, the present bill was intended to prevent a sacrifice of the fund so often referred to, and to preserve it to the public. The lands proposed to be receded were undoubtedly good; but the country was a wilderness. There were no settlements near them, and they were liable to be sacrificed to the cupidity of speculators: for none other than wealthy men, who were in the habit of speculating in the public lands, would, under these circumstances, become the purchasers of them. But, said Mr. B., let the contemplated work be but commenced, and the Government would receive back the money they now gave. He could conceive of no greater object of internal improvement than to connect the waters of Lake Michigan with those of the Mississippi; and he recommended to those gentlemen who were the advocates of internal improvement, to vote for this bill: for no case would ever arise for their consideration of a more national or more important nature. Alluding to what had been said by the gentleman from Virginia, he would remark that it had been rumored that all was not right with regard to the lands that had been granted to Alabama; yet he would say, that even admitting that that State should make an application similar to that which had been made by Illinois, he would vote in such a case as he now intended to do in the present—and why? To save the land from being sacrificed. With regard to Indiana and Ohio, there was no danger of their ever applying to Congress for a retrocession of the lands granted to them; they had made such judicious selections of land, that he had no fears of their ever troubling Congress on the subject. He was willing, on the present occasion,

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as he would be on all others, to give a part to save the whole.

Mr. BARRINGER said, if he were to be influenced by the very sincere regard he had for the honorable member from Illinois, and a desire he ever felt to oblige that gentleman in any matter in which he appeared to take so deep an interest as he evidently did in the subject now under discussion, he should pursue a very different course on the present occasion, from that which he felt prescribed to him by the most obvious sense of duty. But he could not surrender his principles to his private sentiments.

Mr. B. said he had the honor of a seat in this House at the time of the grant of land in question to the State of Illinois, and that he had no motive to conceal his having voted against the grant. But he took occasion now to say, that, if he had originally supported the measure, there were circumstances connected with our relations with that State, in regard to the public lands, not to be overlooked; nay, such as required from this House an expression not to be misapprehended. Not that the work was not one of great national importance; that was a point he was ready to concede, and he would readily admit that few objects of internal improvement could rank higher in the scale of nationality than the connexion of the waters of the Mississippi with Lake Michigan by a canal from that lake to the Illinois river. But, said Mr. B., though I am prepared to make these concessions, and the further one, that the measure may not injuriously affect our pecuniary interests, yet there is a respect due to ourselves, and to the national interests, which should utterly avoid any movement of this House, at this time, upon this subject. The State of Illinois has, on former occasions, as well as very recently, through the medium of her Executive, advanced her claim to the entire and undivided possession of the public lands within her limits, by virtue of State sovereignty. Yes, sir, her State sovereignty! And, whatever other gentlemen might be disposed to do, he would not grant favors where they were not asked as such, but claimed as matter of right; nor would he, in any instance, grant one foot of the public domain to any State, for any purpose, whilst these high pretensions were advanced, nor until they were promptly disavowed. Mr. B. said he, too, was for State rights! not those rights, however, which wrested from the nation its property—acquired by the common blood and common treasure of a united people—to be appropriated to the individual use of the State in which it may chance to be located. Mr. B. said he feared there was a disposition abroad to define and fritter down all general into separate and individual rights; and the mode of its accomplishment was so plainly indicated by so many circumstances, in daily development, that he who runs might read. And let not gentlemen flatter themselves that, whatever may be the alternate fate of the powers rightfully claimed by the General Government, its property at least is safe! Hug not the delusion! Its seizure is determined, and the mode is in preparation. Destroy but the supervisory powers of the Federal Supreme Court, and the object is effected with a certainty, equalled only by the simplicity of the operation. The State seizes upon and grants your public domain; the issue is between your grantee and the grantee of the State. The State judges, deeply imbued in the learning of State rights and State sovereignty, decide that it is inconsistent with the rights of sovereignty that the General Government should hold lands within the limits of the respective States; or, reversing the proposition, that the State should not be the sovereign of the unappropriated lands within her borders, and the work is accomplished! Your grantee is stripped of the benefit of his writ of error, and you of your property.

Mr. B. said he had risen to say a few words only in opposition to the engrossment of the bill. He had occupied more time than he had intended. He would only repeat

that, according to the pretensions set up by Illinois, we had no security (so far as her principles are to afford a barrier) that, when we shall have paid her for this land, by scrip, to be redeemed in the sale of other lands, she will not attempt to seize upon the very land we are now taking by purchase, and appropriate it to herself. He would not, therefore, move one inch, until she disavowed the extravagant pretensions of her late and present Executive.

So far, said Mr. B., as this bill may affect us, in a pecuniary point of view, he so generally accorded with the honorable gentleman from Virginia [Mr. McCox] in the remarks he had made, that he would not reiterate them.

Mr. RENCHER said he should vote for the bill. The work proposed was one of great importance, not only to the State of Illinois, but also to the whole valley of the Mississippi, and to the National Government. All such works of internal improvement were calculated to enhance the value of the public domain. It should not be overlooked, that the General Government owned four-fifths of all the lands in the State of Illinois; and, consequently, if the canal was constructed, the nation would be the gainer, in the increased value of the public lands, of a proportion of four-fifths. Would it, then, he asked, be just, to throw upon that State the burden of construction, when not more than one-fifth of the benefit of the contemplated improvement would accrue to her? He had no intention of entering into a discussion of the propriety of the passage of the bill which originally granted the lands in question to the State of Illinois; nor would he say whether he should have voted for the measure, if he had been here: the question now was, whether the House will give value to the appropriation of lands then made, by passing the bill on the table. He begged leave to say, that much of the lands in the vicinity of the proposed canal was of little value, and would so remain for a number of years, unless that canal should be completed. If that were accomplished, the lands would rise in value, and the benefit to the Treasury of the United States would increase in proportion. The State of Illinois was not able, at present, to perform the work—the General Government was; and the nation would receive a tenfold indemnity from the success of the measure now proposed. Pass this bill, sir, said Mr. R., and that part of the country that is now a wilderness—a desert—will become the most flourishing part of the State.

Mr. CLAY, of Alabama, said he had not intended to participate in the discussion of this bill, nor should he now have risen, but to take notice of some remarks which had fallen from two gentlemen who had preceded him, having reference to the State which he, in part, had the honor to represent.

The gentleman from Virginia [Mr. McCox] had remarked, that, if this bill passed, we should have applications from Ohio, Indiana, Alabama, &c., (to all of whom similar grants had been made,) to change the terms of their grants—to take back the lands granted, &c. To relieve the gentleman's apprehensions, so far as Alabama was concerned, Mr. C. said the State had already sold and disposed of the lands, or, at least, much the greater part, which had been granted for a like improvement, and they were now in the hands of individual proprietors. Hence there was no probability that any similar measure would be proposed by the Legislature, or the people of that State. The State of Ohio had no doubt also disposed of her grant; and no apprehensions were to be entertained of any similar proposition from that quarter.

But the gentleman from Tennessee [Mr. BELL] had alluded to certain rumors which had been afloat, that Alabama had mismanaged the grant of 400,000 acres, which had been made to that State for the improvement of the Tennessee and other rivers. Mr. C. said he was not displeased at the opportunity which had thus been afforded,

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of giving some explanation of the manner in which that land had been disposed of. The Legislature had passed a law for the valuation of those lands, by commissioners appointed and sworn for that purpose, having due regard to the quality of soil, locality, &c. Those commissioners were citizens of the country in which the lands were, and fully competent to assess a fair and adequate value. They had assessed the value of each particular tract, and for the prices so ascertained and fixed, the land had been sold, and had doubtless produced an average price above that for which the United States had sold like quantities of land before and since. Mr. C. was aware, he said, that rumors, as the gentleman from Tennessee remarked, had been in circulation, unfavorable to the conduct of the commissioners; and, in consequence of impressions produced by these rumors, more than twelve months ago, the then Chief Magistrate of Alabama had noticed them in his communication to the Legislature. Upon that communication (as Mr. C. understood it) a committee had been appointed, with power to send for persons and papers, and an inquiry into the grounds of these rumors instituted. The committee was composed of high-minded, honorable, and intelligent gentlemen. Many witnesses had been examined, and a laborious investigation had taken place, which resulted in a report wholly exculpatory and acquitting the commissioners from the censure which rumor had bestowed upon them. Copies of this report had been forwarded, during the last session, to several gentlemen of this House, and could, no doubt, now be had for examination, if desired. Mr. C. added that it was true, having the honor of a seat in the Legislature of Alabama at the time the disposal of these 400,000 acres of land was under consideration, he had preferred another mode, and felt it his duty to oppose the one adopted in the law which passed. But he nevertheless thought, when the facts he had mentioned were taken into view, and considered, the imputations against the Legislature of that State, which had been alluded to, would be considered unfounded and unjust. The important work contemplated by this grant is now in progress, and will, no doubt, be accomplished in the manner, and within the time, designated by the act of Congress.

While up, Mr. C. said, as he intended to vote for the bill under consideration, he would make a few remarks upon that subject. The bill contemplates, as its title purports, to change the mode of disposing of the lands heretofore granted to Illinois, to enable her to construct the canal in question. No question of constitutionality, or perhaps of policy, which might be involved, if the original measure were now presented, could arise on this occasion. Indeed, he did not understand that the question of constitutionality had been raised by the opponents of the bill. And Mr. C. said he would take this occasion to remark that he concurred, most cordially, in the sentiment, that all further appropriations of money for purposes of internal improvement should cease, at least until the public debt was paid—however willing he might have been, while the system prevailed, that his State should receive a liberal dividend.

But, Mr. C. repeated, no question of that nature arose in this case. The land which had been granted to Illinois was situated along the proposed line of the canal—in a tract of country altogether unsettled, and remote from those parts which were settled; consequently, it would not now sell for a fair price, when other lands of the same State, and in others, afforded facilities so much greater. No man would go into the midst of a wilderness to make a settlement, so inconvenient to the means of subsistence, when he could get land of nearly equal quality in the neighborhood of abundant supplies. What does the Legislature of Illinois propose, and what does this bill contemplate? Merely that she may be permitted to relinquish a portion of this land, so situated, and receive

scrip therefor, at the rate of one dollar and twenty-five cents per acre, to be received in payment for other lands of the United States, in Illinois alone. It amounts, at most, to a mere exchange of lands heretofore granted for other lands. Not one dollar of the public treasury is proposed to be appropriated, nor one acre of the public land to be granted.

It had been intimated, in debate, that the land proposed to be relinquished was probably inferior, and, on that account, could not be sold. But the gentleman from Illinois [Mr. DUNCAN] had placed that matter beyond doubt, (as Mr. C. conceived,) by the evidence of one of the engineers, whose statement had been read, showing, satisfactorily, that the land was of as good quality, generally, as perhaps any other like quantity of land in the State. The completion of the canal would, unquestionably, enhance the value of the land proposed to be relinquished, as well as the public domain in that State, generally, and thus ensure to the Government a most ample indemnity. The only inconvenience that could arise to the United States, would be the possible delay of receiving the money for which the land for which the scrip would be paid, might sell, for a few months, or perhaps longer. The scrip was not, in any event, to be redeemed with money, but land, and only acre for acre. Not more than fifty thousand dollars of scrip could, under the provisions of the bill, be issued at once; and the investiture of that sum, in conformity with the conditions of the grant, must be shown to the satisfaction of the Secretary of the Treasury, before any more could issue. Indeed, every interest of the General Government, contemplated in making the grant, is carefully guarded and preserved. The work intended is admitted, Mr. C. believed, on all hands, to be one of national importance, as it proposed a connexion between Lake Michigan and the navigable waters of the Mississippi. The benefits likely to result from it, if completed, would be almost incalculable, not only to Illinois, but to the whole Western country. Shall we not then aid, when we do not sacrifice a single dollar of money, or a foot of the public domain?

The question of engrossment being stated from the Chair, Mr. ANGEL called for the yeas and nays on the question, and they were ordered by the House.

Mr. STRONG made some remarks in favor of the bill, considering that, particularly in a military point of view, its passage would be of great importance—it would also tend to promote the rapid settlement of that section of the country; and the proposed work was, in his view, altogether of a national character. He then submitted the following amendment, to come in at the end of the fifth section, and said a few words in its favor.

*“Provided, and it is further enacted, That no land, as aforesaid, shall be received in exchange for the scrip aforesaid, at a less price than one dollar and twenty-five cents an acre.”*

The amendment was agreed to.

The question being finally put on the engrossment of the bill for a third reading, it was decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Bailey, Bartley, Bates, Baylor, Beckman, Bell, John Blair, Boon, Brown, Butman, Clay, Clark, Coleman, Crawford, Crockett, Creighton, Doddridge, Dorsey, Duncan, Eager, George Evans, Edward Everett, Findlay, Finch, Ford, Grennell, Hawkins, Hemphill, Howard, Hunt, Ihrie, Ingersoll, Thomas Irwin, W. W. Irvin, Johns, Richard M. Johnson, Kennon, Kincaid, Leavitt, Lecompte, Leiper, Letcher, Lyon, Martindale, Mercer, Norton, Pearce, Pierson, Rencher, Richardson, Rose, Shields, Semmes, Sprigg, Stanbery, Standefer, Strong, Swann, Taylor, Test, John Thomson, Vance, Washington, Whittlesley, Wilson, Yancey, Young.—67.

NAYS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Armstrong, Arnold, Noyes Barber, J. S. Barbour, Barnwell, Barringer, James Blair, Bockee, Borst, Boul-

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din, Brodhead, Cahoon, Cambreleng, Campbell, Carson, Chandler, Chilton, Claiborne, Coke, Conner, Cooper, Coulter, Cowles, Crane, Crocheron, Crowninshield, Daniel, Davenport, John Davis, Warren R. Davis, Desha, De Witt, Dickinson, Draper, Drayton, Dudley, Dwight, Earll, Ellsworth, Horace Everett, Forward, Foster, Gaither, Gilmore, Gordon, Green, Hall, Halsey, Hammons, Harvey, Haynes, Hinds, Hodges, Holland, Hoffman, Hubbard, Huntington, Jarvis, Cave Johnson, Kendall, Perkins King, Adam King, Lamar, Lea, Lent, Lewis, Loyall, Lumpkin, Magee, Marr, Martin, Thomas Maxwell, Lewis Maxwell, McCreery, McCoy, McIntire, Monell, Muhlenberg, Nuckolls, Patton, Pettis, Polk, Potter, Ramsey, Roane, Russel, Sanford, Scott, William B. Shepard, Augustine H. Shepperd, Sill, Smith, Speight, Richard Spencer, Sterigere, William L. Storrs, Swift, Taliaferro, Wiley Thompson, Tracy, Trezvant, Tucker, Varnum, Verplanck, Vinton, Wayne, Weeks, Campbell P. White, Wilde, Williams.—115.

So the bill was rejected.

THURSDAY, JANUARY 6.

#### ILLINOIS AND MICHIGAN CANAL.

Mr. YINTON rose, and said he had yesterday voted with the majority in the rejection of the bill "authorizing a change in the disposal of land granted for the Illinois and Michigan canal." Understanding that, if the vote was reconsidered, the gentleman from Illinois would move such a modification of the bill as would make it more acceptable to the House, he had risen for the purpose of making that motion.

Mr. CLAY moved to postpone the consideration of the motion till the 20th instant.

Mr. HAYNES moved to postpone it indefinitely.

The SPEAKER said the motion was not in order—a motion to postpone to a day certain had the preference.

Mr. HAYNES then moved to postpone the motion of Mr. YINTON to the 3d day of March.

The SPEAKER said that this motion was not in order; it was not a privileged question.

Mr. DRAYTON moved that the motion lie on the table.

The question being put on this motion, it was decided in the negative—yeas 65, nays 84.

Mr. POTTER renewed the motion for indefinite postponement.

The SPEAKER again decided that the motion was not in order.

Mr. HAYNES again moved to postpone the motion to the 3d of March; it was his opinion that the question should be first put on the longest time proposed.

The SPEAKER said—It is not mine.

Mr. MCCOY hoped the motion would not be postponed; but that the House would immediately decide upon the question of reconsideration.

Mr. MARTIN said, if any good reason could be assigned for reconsideration, he did not know that he should oppose it; for instance, if the vote of yesterday, on rejecting the bill, which was nearly two to one, had been taken prematurely. No good reasons had been offered, that he had heard, for the course that had been proposed; and the House might in this way be constantly discussing what they would and what they would not do, and in the end do nothing.

Mr. CLAY said he had made the motion with a view to avoid discussion at the present time. The bill had been so recently debated, that the remarks made upon it must be fresh in the minds of gentlemen, and the object of postponement was the better to mature the bill, and give time for reflection.

Mr. DUNCAN hoped the postponement to a day certain would take place. He would give the gentleman from South Carolina a reason for wishing it postponed, as

he was at a loss for one. Mr. D. said he had no doubt, and it was a general opinion, that the speech of the member from North Carolina, [Mr. BARRINGER,] against the bill, yesterday, was the cause of its rejection. He said that the objection urged in the speech of Mr. B. was chiefly on account of the claim made in the messages of the late and present Governor of Illinois to all the public lands. He said, it would be remembered that that gentleman had warned the House against giving money for land which the State was claiming, and would hereafter claim, as her own. Mr. D. remarked that the Legislature of the State was now in session, and, by the day fixed, we shall see whether it sanctions or adopts the recommendations of the Governors. He did not think, however, that the question of the right of the State, or the claim set up by the Governors, ought to be introduced into the debate on this bill, or in this House; as it was strictly a legal question, that must, if seriously entertained, be settled by another tribunal. Mr. D. had other reasons for wishing time; many of the friends to the measure were opposed to the details of the bill, which he hoped might be obviated by a little consultation.

Mr. STERIGERE said that, in his opinion, the reasons assigned by the gentleman from Alabama for postponement were the very ones which should induce the House at this time to decide the question of reconsideration. If the remarks of gentlemen were fresh in the recollection of the House, they certainly now had it in their power to act understandingly on the subject; whereas, if the question was postponed, they would be very likely to forget them.

Mr. CLAY said, in reply, that he had not made the motion to postpone, with a view that gentlemen might forget the facts which had been stated to the House, but simply to give time for reflection, so that the House might come to a proper conclusion.

The question was then put on the motion to postpone the consideration of the motion of Mr. YINTON to the 20th instant, and decided in the negative—yeas 70, nays 86.

Mr. HAYNES then moved to postpone the bill till the 4th of March next.

Mr. CLAY moved to postpone the motion for reconsideration to the 13th instant, which took preference of the motion of Mr. HAYNES.

Mr. DRAPER called for the previous question; but the House did not sustain the call.

Mr. VANCE said he saw no reason for thus destroying the bill. It was one of great importance to the Western country, and one which it was desirable to pass; but, if gentlemen would force a vote upon it at this time, without giving time for consultation, and an opportunity of so modifying it as to suit the views of members, he should call for the yeas and nays on the postponement, so that the people of that section of the country, interested in its passage, might be enabled to learn how their representatives had voted. He demanded the yeas and nays, and they were ordered by the House.

The question was then put on the postponement of the reconsideration of the bill till the 13th instant, and decided in the affirmative—yeas 94, nays 87.

Mr. CROCKETT made another ineffectual attempt to get up the Tennessee land bill. He called for the yeas and nays on his motion, and they were ordered by the House; and, being taken, it was decided in the negative—yeas 89, nays 92.

#### LATERAL RAILROAD.

Mr. DODDRIDGE said he had a motion to make, which was necessary to facilitate the action of the House on a bill now pending before it. He meant the bill to authorize the Baltimore Railroad Company to extend a branch from their road to and within this District. The

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House had already, on his motion, as the chairman of the District committee, referred to that committee the memorial of one of the corporations of the District, having reference to that bill, on the supposition that, if it passed in its present shape, it might jeopardize their rights.

Mr. BROWN asked to have some reason assigned for the reference proposed.

Mr. DODDRIDGE said, that this morning he had been waited on by an agent, to state that the Council of the city of Washington wished to be heard on the same subject; and, as the people of this District can nowhere be heard on subjects affecting them so vitally, except before the Committee for the District of Columbia, he moved that the bill in question, together with the amendments proposed to it, be referred to the appropriate committee.

This bill, Mr. D. said, had got on to the present stage with much speed and good fortune, without ever having been seen by the committee to which its consideration of right belonged. To put this in a plain point of view, it was necessary to observe, that nothing was asked of Congress in their character of a National Legislature, but only as the Legislature of the District. The company had been incorporated by a charter of the State of Maryland, with certain immunities and privileges, one of which was a power to extend from the main road as many lateral railways as they please. By virtue of their Maryland charter, they may extend the contemplated branch to this District, but without our consent they cannot enter it. This consent they wish to obtain by the bill, and nothing more—they ask no funds nor aid whatever. It is evident, therefore, that the consideration of this subject exclusively, in the first instance, belonged to that committee whose duty it was to guard, not only the rights and interests of this people, who have no representative here, but also to take care of the property of the nation in the city of Washington. He hoped, therefore, no objection would be made to the reference he asked.

Mr. HOWARD said he had no objection that the Committee for the District of Columbia should throw as strong a guard around the people of the District as it was in their power to do. It was certainly the right and the duty of Congress, as the Legislature for the District, to do so. But, while he admitted this, he must be pardoned for suggesting another course, which was more agreeable to his views of expediency. If the bill were to be taken from the tables of the House, it was impossible to say when it would find its way back again. It was an unusual course, to say the least of it, to recommit a bill when it had arrived at the stage of the one now referred to. He saw no difficulty in the way of modifying the bill, if it was desirable. One amendment had already been offered by his colleague, and others could be by gentlemen, if it was desirable, without a recommitment. He asked if the purpose of the chairman of the District committee would not be as well answered, if the bill were made the order for some particular day; and in the mean time he could prepare such amendments as he considered desirable, which could be offered when the bill came up for consideration. Mr. H. said he was for the road, and nothing else. He consulted the interest of no particular company or corporation, nor did he care by whom it was constructed. He earnestly desired to see the work completed. The reason why he was opposed to taking the bill from the table was, because of its great importance, and the necessity there was for its being acted upon at an early day. A great deal was to be done before operations could be commenced upon the road, and it was highly expedient that it should be commenced by the latter end of the winter, or early part of the spring. If the operation was delayed till the summer season, there was reason to fear that the work would be retarded for a whole year. The suggestion he had made, if the House should concur in the propriety of a motion to that effect, he

thought, would enable the chairman of the District committee to give the subject all possible attention and examination, and he hoped he would not press his motion for recommitment.

Mr. DODDRIDGE said that he could not yield to the wish of the gentleman from Maryland; nor could he understand by what reason gentlemen assumed to say that a reference would defeat the bill. Such was not his desire, nor could it be that of the Committee for the District, or its inhabitants. So far from this, he intended to propose to ask leave of the House to sit during its sitting on Monday next, and to devote that day to an examination of the subject, and to a hearing of the parties.

He thought he could comprehend another suggestion made by a gentleman from Maryland, without much difficulty. He has said that, unless the bill shall pass soon, and nearly in its present shape, the road cannot be made. In reply to this remark, he would say, that, in its present shape, he did not see how any man who properly respected the interests of this city, or who would pay a proper regard for the public property in it, could vote for it.

Mr. BROWN said he was opposed to both motions. He viewed the matter in this light: there was a struggle between two sections of the county of Washington, to see which could reap the greatest benefit from the construction of the proposed road. The fact was, if the road was not speedily constructed, it would not be made at all, and thus the citizens of the District would lose the benefit of it. The corporation chartered by Maryland was willing to make the road; they had the means to do it, and would do it without any expense, or any injury to the property of the inhabitants of the District. If it was desirable to the people of the metropolis to have the road constructed, now was the time for the action of Congress, as their legislators. Pass the present bill, and do it speedily, and the citizens would soon reap the benefits of the proposed measure.

Mr. SEMMES opposed the motion for commitment. There was great necessity, he said, for acting on the bill as speedily as possible, not only on account of the importance of the proposed work, but there was danger that, if the bill was taken from the tables of the House, it would be a long time before it would regain its present situation. There were a number of subjects likely to come before the House—the proposed amendment to the constitution; the bill to apportion the representation under the fifth census; perhaps the tariff question, and no doubt others, the discussion of which would be likely to retard the action of the House on this bill, if it was recommitment. For his part, he should prefer to make it the special order for some day certain, and, in the mean time, by consultation, and examination of the various interests concerned, gentlemen would be prepared to offer such amendments as were necessary, when the bill came up for the action of the House.

Mr. WHITTLESEY regretted very much the opposition which had been made to the motion of the gentleman from Virginia, by the gentleman from Maryland. He thought that the course proposed by the chairman of the District committee was the best. The course pursued by the gentleman from Maryland who had spoken on the subject, was, in his opinion, incorrect. He thought this was a fair subject for the investigation of the District committee. The bill was now in the possession of the House, and such disposition could be made of it as gentlemen chose. If the House was determined to give it the go-by, it could be done now; but, if it was referred to the Committee for the District of Columbia, when reported by them, it could be made the order for a day certain, and receive the early action of the House. The present was a case in which the friends of internal improvement should unite to ensure the success of the proposed measure; and if there ever was a subject calling for their united exertion, this



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was one. If the gentlemen from Maryland wished for the success of the proposed measure, he was firmly of the belief that they should concur in the proposed reference to the District committee.

Mr. HOFFMAN expressed himself in favor of the motion. He should be glad to have the whole matter referred to the District committee. This he considered by far the better course; they would become acquainted with the sentiments of the people of the District, and obtain all the necessary information to enable the House to act understandingly on the subject. The House would thus have it in its power to get along with the more ease, and the subject would undoubtedly be the sooner disposed of.

Mr. CAMBRELENG was of opinion that, if the motion prevailed, the bill would be lost. He should oppose every motion that tended to give an opportunity for the interference of the people of the District in the legislation of the House relative to the proposed road. If they were allowed to interfere as it suited their particular interests, we should consume years in acting on this or any other subject. The question was a simple one—the company asked for no aid, but simply to be allowed the privilege of making the road. It was not proper to put it in the power of any individual or corporation to say where the road should be located. There was no engineer wanted to examine and mark out the route of the road. The Baltimore company offered to make it free of expense, and they should be allowed to locate and carry it where their interest would be most promoted.

Mr. IHRIE said, there were various and conflicting interests among the citizens of the District, and it was proper that, before receiving the action of the House, the bill should go where it had never yet been, viz. to the Committee for the District of Columbia. Congress was the sole Legislature for the District, and it was its bounden duty to watch over its interests, and protect the people in all their rights. Therefore, it was expedient that the bill should take the course proposed. He was in favor of the construction of the road, but he wished it located where it would best subserve the interests, and tend to the prosperity of the District. He had, however, risen principally to draw the attention of the House to one of its rules, and he called for the reading of it. It was read by the Clerk, as follows: "It shall be the duty of the Committee for the District of Columbia to take into consideration all such petitions, matters, or things, touching the said District, as shall be presented, or shall come in question, and be referred to them by the House, and to report their opinion thereon, together with such propositions relative thereto, as to them shall seem expedient."

Mr. DRAYTON inquired whether the memorial, asking for liberty to construct the road within the District, had been presented by citizens of the District, or by the Baltimore and Ohio Railroad Company.

He was answered, by the latter.

Mr. INGERSOLL expressed himself very strongly in favor of the motion before the House. It was an absurd idea that the citizens of the District should not be allowed to remonstrate against any measure that was not for their interest; or that any portion of them should not be permitted to memorialize Congress, either to obtain a benefit from any proposed act of legislation, or to prevent an injury likely to arise therefrom. The people of this District were almost disfranchised; and he thought it would be a hard case to debar them from enjoying the little liberty that was left them. He saw nothing wrong in consulting with the people before passing laws by which they were to be governed. He considered the doctrine of the gentleman from New York as a very singular one, and should be sorry if it prevailed to any great extent. He thought the request of the chairman of the committee a very reasonable one, and hoped it would be granted.

Mr. HOWARD said, that, when the memorial was sent

to him to be presented to the House, he had searched the records to know to what committee he should propose its reference. He had found two cases of a similar nature, (which he stated,) one of which had been referred to the Committee on Roads and Canals, and the other to the Committee for the District of Columbia. He was consequently at a loss to know what direction to give it. The gentleman who had just addressed the House had said that it was not right to pass laws having relation to the District, without consulting with the people thereof. He concurred with him in this opinion. When the petition was presented, it was noticed in the public papers, and was published at large in one of them the next day. If the people here had any objections to the proposed measure, why did they not appear before the Standing Committee for the District, and state them. That committee had been in session on many days since, and thus gave the citizens an opportunity to be heard, if they had any remonstrance to offer; but no one had appeared before it. It was inconsistent to say, therefore, that an opportunity had not been given them to be heard. The committee was at all times accessible; and no complaint could be made to the contrary.

Mr. H. would remark, that no injury could possibly arise to the citizens, or the corporations of the District, by the passage of the bill on the table. It was carefully worded—the road was not to interfere with or obstruct the travel or transportation on any street; and all private property necessarily condemned was to be paid for; so that the interests of the corporations had not been overlooked by the committee which had reported the bill. He trusted, in conclusion, that the bill would not be thrown from the table, and thus lose a station which it would not, perhaps, ever regain.

Mr. DODDRIDGE said, that, if he could rightly understand the bill, (and he read it attentively with that view,) there was nothing to prevent this road from passing through the northwest corner of Georgetown, so as to meet the Ohio and Chesapeake canal, at or above the Little Falls, which would prostrate the value of property in this city either held under or by the United States. The other argument, that this bill had already been under the consideration of a committee who had attended to the interests of the District, and before which the inhabitants might have appeared and defended their interests, he thought, admitted of this reply: that the same thing might be urged, and with the same propriety, if the former reference had been to any other standing committee—that on Commerce and Manufactures, for instance.

The question was then put on referring the bill to the Committee for the District of Columbia, and determined in the affirmative—yeas 66, nays 57.

#### COPYRIGHTS.

The House took up the bill "to amend the several acts respecting copyrights."

[The last section of the bill was substantially as follows:

SEC. 16. That any author or authors, &c. of any book, &c. who have heretofore obtained the copyright thereof, according to law, should be entitled to the benefit of the act, for such period of time as would, together with the time which should have elapsed from the first entry of such copyright, make up the term of twenty-eight years, with the same privilege to himself, or themselves, his or their widow, child, or children, of renewing the copyright at the expiration thereof, as is provided in relation to copyrights originally secured under the act, and with the benefit the several provisions thereof, &c.

This last section Mr. ELLSWORTH, by instruction of the Judiciary committee, proposed to strike out, and to insert, in lieu thereof, the following:

"And be it further enacted, That, whenever a copyright has been heretofore obtained by any author, or authors,

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Reduction of Bounties.

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inventor, designer, or engraver, of any book, map, chart, print, cut, or engraving, or by a proprietor of the same, if such author, or authors, or either of them, such inventor, designer, or engraver, be living at the passage of this act, then such author, or authors, or the survivor of them, such inventor, designer, or engraver, shall continue to have the same exclusive right to his book, chart, map, print, cut, or engraving, with the benefit of each and all the provisions of this act, for the security thereof, for such additional period of time as will, together with the time which shall have elapsed from the first entry of such copyright, make up the term of twenty-eight years, with the same right to his widow, child, or children, to renew the copyright at the expiration thereof, as is above provided in relation to copyrights originally secured under this act. And if such author, or authors, inventor, designer, or engraver, shall not be living at the passage of this act, then his or their heirs, executors, and administrators, shall be entitled to the like exclusive enjoyment of said copyright, with the benefit of each and all the provisions of this act, for the security thereof, for the period of twenty-eight years from the first entry of said copyright, with the like privileges of renewal to the widow, child, or children of such author, or authors, designer, inventor, or engraver, as is provided in relation to copyrights originally secured under this act: *Provided*, That this act shall not extend to any copyright heretofore secured, the term of which has already expired."

Mr. HOFFMAN opposed the bill, which appeared to him to be at variance with every principle of sound policy. It went to establish a monopoly of which authors alone would reap the advantage, to the public detriment. The people had rights to be secured as well as authors and publishers: and he would submit to the House whether it would not be better, in a case of such importance, to send the bill into a Committee of the Whole House, where every part of it could be fully discussed. He instanced the case of any person discovering or inventing any useful improvement in the arts, taking out a patent, and being obliged to lodge a full specification and an entire model of his work in the proper office, and that, too, so accurately and minutely, that a similar one could be made from the model and description; and yet, even then, the applicant received his patent right for fourteen years only, and, at the expiration of that period, his invention became the property of the public.

So it should be, said Mr. H., with the author or publisher. There was an implied contract between them and the public. They, in virtue of their copyright, sold their books to the latter at an exorbitant rate; and the latter, therefore, had the right to avail themselves of the work, when the copyright expired. Besides, it would be a breach of contract with those booksellers who had purchased copyrights of authors heretofore, and whose rights would be infringed upon, should the privileges of the authors of works be extended as proposed by the bill. He trusted that, if they would legislate upon the subject, they would legislate so as to leave the rights of all interested in this matter precisely in their present state.

Mr. ELLSWORTH vindicated the bill, which, he contended, would, in its results, enhance the literary character of the country, by holding forth to men of learning and genius additional inducements to devote their time and talents to literature and the fine arts. He moved an amendment, extending the security afforded by the act to living authors, and, in the event of their death, and their leaving families, to the family, for a further period of twelve years.

Mr. HOFFMAN replied; and was followed by Mr. HUNTINGTON, who strenuously supported the measure, as one that would do honor to the country, and promote, in the most eminent degree, the advancement of all that ennobles and dignifies intellectual man. He was in favor of the amendment, in particular, as no more than an

act of pure justice; for why, he asked, should the author who had sold his copyright a week ago, be placed in a worse situation than the author who should sell his work the day after the passing of that act? He would cite a single case by way of illustration. Webster's Dictionary, for instance, that unrivalled work, that monument of the learning, industry, and genius of its author. What, he inquired, should that great work, the labor of a whole life, be secured to its author, under the existing law, only for the term allowed in the event of the passing of a bill extending the period of copyrights? No: all cases came within the spirit of the measure; and justice, policy, and equity alike forbade that any distinction should be made between them.

Mr. VERPLANCK adverted to the argument of his friend and colleague, [Mr. HOFFMAN,] as to an implied contract existing between an author and the public, by which the former relinquishes his right to his works, at the end of fourteen years, to the public. The whole argument was founded on a mistake, apparent to the eye of common sense, and repugnant to the law of the land. There was no contract; the work of an author was the result of his own labor. It was a right of property existing before the law of copyrights had been made. That statute did not give the right, it only secured it; it provided a legal remedy for the infringement of the right, and that was the sum of it. It was, he repeated, merely a legal provision for the protection of a natural right. That right was acknowledged by all, and hence the disgrace attendant on plagiarism and literary piracy. It was so held in England; and in the great case of literary property, tried before the court of King's Bench, the judges were unanimously of opinion that an author had an inherent right in the property of his works. The bill before the House went merely to extend the remedy to twenty-eight years. It was not the granting of a property. Such is the view, said Mr. V., taken of it in the constitution of the United States, and such is my opinion of it. I conceive the bill and the amendment ought to pass into a law, as I consider the measure not only politic and proper, but a necessary act of common justice.

Mr. HOFFMAN rejoined. His colleague who had just sat down, had spoken of the right of authors, and had described the copyright act as simply a remedy for the abuse of that right. That seemed to him [Mr. H.] as amounting almost to a contradiction in terms: for he knew of no right but a remedial right; and he was perfectly willing to leave authors every right possible, provided they were not granted the extended remedy of the present bill.

Mr. VERPLANCK and Mr. HOFFMAN mutually explained.

Mr. EVERETT, of Massachusetts, supported the bill and amendment.

The amendment of Mr. ELLSWORTH was then read, and agreed to.

Mr. HOFFMAN moved, as an amendment, to strike out twenty-eight years, and insert fourteen; but the proposition was negatived.

The bill, as amended, was then ordered to be engrossed for a third reading to-morrow—yeas 81, nays 31; and

The House adjourned.

FRIDAY, JANUARY 7.

[For the report, see the Appendix.]

#### REDUCTION OF BOUNTIES.

Mr. McDUFFIE, from the Committee of Ways and Means, reported a bill to reduce the bounty on pickled fish exported.

It was read a first and second time.

Mr. McDUFFIE said that the bill was one of great importance; and it was desirable that it should pass speedily.

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dily, as fish that might be exported before the first of the month, were entitled, by the present law, to the full amount of the bounty which it was the object of the present bill to reduce. He moved, therefore, that it be engrossed for a third reading.

Mr. ANDERSON rose to request that the bill might lay on the table for a short time, to give an opportunity to examine it. The first notice the House have of the bill is, by having it read by the Clerk; and it is proposed to Congress to pass it without a moment's time for reflection or examination of its provisions. It may be all right, and such as we ought to pass; but, as it relates to an important portion of citizens, who are indispensable to our navigating interest and to our navy, Mr. A. wished, at least, for an opportunity to read the bill before he gave his vote upon it. He felt a deep interest in whatever related to our commerce and our navy, the prosperity of which depended on our fisheries; and whatever depresses the latter, would most assuredly be felt by the former. Every maritime Power has seen the importance of encouraging and increasing her fisheries, as the only sure foundation of her commercial and naval prosperity; and he hoped we should not lightly, and without the usual consideration, pass any bill that might, in its consequences, injure this nursery of our seamen, and render our navy dependent on foreigners for men. Look, for a moment, to Great Britain, the greatest Power on the ocean, and let us be mindful to profit by experience. See the encouragement she has given, and still gives, to maintain and increase her fisheries. Her fisheries pay no duty on salt, and yet she gives a greater bounty than we ever have given ours; the effects of which are seen both in her merchant ships and men of war, all manned with her own subjects. Not so with ours. At this very hour, one-third of all the sailors in our tonnage afloat are foreigners; and it is not in our power to send a single frigate to sea with a full complement of native sailors. The bad effects of this practice of manning our ships will be severely felt when a war shall call us on the ocean. Mr. A. did not know that this bill would have any injurious effect on the fisheries, yet still he wished a short time to examine it, and requested that it might lay on the table until Monday.

Mr. REED said, the subject had come upon them in so unexpected a manner, that it was scarcely possible to meet it and discuss its merits at once. He was opposed to its being thus rapidly disposed of, before an opportunity was afforded to those who might be interested in it, to give it a due and proper consideration. Mr. Jefferson, when Secretary of State, had entered into a full investigation of the matter, and presented a report upon it, which was, perhaps, unknown to many, but which ought to be in the hands of all whose duty it was to legislate respecting it. In that report, he took a review of the practice in England and France, those two great commercial nations, with regard to the system of bounties generally, but, in particular, as respected the fisheries. In order that the opinions of that great statesman on this subject might be known, he was anxious for the republishing of that report. It was as applicable to the present day, as to the period for which it was written. The question was one of infinite importance. The fisheries, although of direct interest to one class of the community only, were yet of advantage to all: for our trade, our commerce, and our navigation were all, more or less, affected by it. He would go further; he would state that the fishing business was so poor, that no nation could engage in it without the encouragement afforded by national bounties. He could state this from his own personal observation; at least, as far as our own fisheries were concerned. And let gentlemen also look to the fact, that those fisheries contributed to the best defence of the country. He did not speak of future wars—he did not anticipate such

evils—but should we not be exempt from such scourges, where would our battles be fought? Not upon the soil of our country, but upon the waves of the ocean. The triumphs of the last war were not, and never could be, forgotten. The fisheries had been the nurseries of our seamen, and long might they continue to be so. He concluded by stating that he considered the bill to have a tendency to destroy that valuable branch of our commerce, and to root up the school of our most hardy, enterprising, and skilful seamen. There had been no change in the policy of other nations in respect to the fishery bounties: Holland, England, and France had continued their systems, and prospered under them. He hoped the bill would be postponed for a few days; and if no other member of the House should make a motion to that effect, he himself should feel it his duty to do so.

Mr. McDUFFIE said that he did not see the policy of the postponement. The argument of the gentleman from Massachusetts [Mr. REED] was founded on a mistaken basis. Every one knew that a large bounty was given on the tonnage of vessels employed for four months in the year in the fishing trade; and the law he proposed did not effect this. It went merely to effect a corresponding reduction in the bounty to the reduction of the duty on salt. The duty on salt was formerly twenty cents per bushel—and a bushel of salt, he believed, was sufficient to pickle a barrel of fish. That duty was now only ten cents per bushel; and would any gentleman then say, that the same bounty should be allowed in the one case as in the other? If a delay is wished in this case, why, let it be granted; but, said Mr. McD., I give notice that, on the further discussion of this subject, I may, perhaps, be induced to go into the question of the bounty on tonnage. I did hope that no opposition would have been offered to this measure. I am willing that it be postponed until Monday.

Mr. MARTIN said that it was his intention to investigate the whole of the bounty system. Salt and the fisheries were not the only articles of the commerce of the country. He wished gentlemen to understand that he should enter particularly into the question of drawbacks.

After some further discussion, the bill was postponed until Monday.

#### CLAIM OF JAMES MONROE.

The House then, on motion of Mr. MERCER, resolved itself into a Committee of the Whole, Mr. FINDLAY in the chair, and resumed the consideration of the bill "for the relief of James Monroe." The question before the House being on a motion made by Mr. WHITTLESLEY, when the bill was last under consideration, to strike out the enacting clause of the bill,

Mr. WILLIAMS said, this was a delicate question, and he was sorry to be impelled by what he believed to be a sense of duty to resist the passage of the bill. He had, as far as opportunity would enable him to do so, examined the subject, and was clearly convinced the claim was wholly destitute of foundation. If it be tested by the laws and usages of the country, it will be found that Congress has not only dealt justly, but generously, with the individual whose demand we are now called upon to consider.

Let me not, said Mr. W., be suspected of a design to make an appeal to popular topics, or to use declamatory language, when I say that in this country all men are equal; that separate or exclusive privileges and immunities are not to be allowed to any one. This is the vital principle of the republic, the genius of our Government, and no measure in contravention of it should ever be proposed—or, if proposed, it should certainly not be adopted. If a law be passed for the benefit of any one individual, that principle of equality which is essential to, and inseparable from, the very nature of our political institutions, requires—nay, sir, demands, that all our citizens should be simi-

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larly benefited. In this view of the subject, setting aside the sum to be paid, the claim of Mr. Monroe is very important. The sum proposed to be given to him is sixty-seven thousand nine hundred and eighty dollars and ninety-six cents; which is a large amount, considering it merely as a private claim. But great as the sum is, it is not at all comparable in magnitude to the principle involved in it, because the same kind of grant must and should be made to every other citizen similarly situated. For, if not, that equal condition of rights and privileges, in which all are taught to repose in confidence and safety, will not be maintained.

We were told the other day that there were some subjects into which members of this House would not inquire. If any gentleman chooses to decide questions before him without examination, be it so; it is nothing to me; it is an affair between him and his constituents. But I think my duty best performed when I have given to every subject the fullest examination of which I am capable, and have decided it according to the weight of evidence before me. It affords me no pleasure to oppose any claim, whether it comes from a distinguished citizen, from one who has filled all the high offices in the country, or from one whose life has always been private and obscure, and who never has filled any office. But distinguished citizens, if they persevere in making demands of the Government, must expect to have their claims examined; they must and shall be dealt with by me in the same manner as if they were people the most humble and obscure: and if the claims of the latter are to be rejected, so must those of the former. No difference should be made, but equal and exact justice should characterize all our proceedings.

From what we have heard in this House, and from what has been going on out of it, one might be induced to believe that Mr. Monroe had served his country for nothing; that throughout a long life, embracing a period of many years, this distinguished patriot had devoted himself to the public without any compensation whatever. But is this the fact? No, sir, it is not. So far from it, that it may be affirmed as a truth well established and beyond all doubt or contradiction, that he has received more of the public money than any other citizen in the whole country. In a publication made by the late Governor of Virginia, (Mr. Giles,) it was stated that Mr. Monroe had then received as much as four hundred thousand dollars of the public money. This statement has never been denied or contradicted by any one; and I believe it can be verified by recorded evidence on file in the various departments of the Government. If this be true—and I presume no one will attempt to deny it—what conclusion must follow? Not that Mr. Monroe has served for nothing; not that he has labored through a long life without any compensation; but that in serving the public he has also served himself; that he has been paid four hundred thousand dollars, which is a greater sum than any other man has received. If any one has ever had so much, the fact has entirely escaped my observation. Very certain I am that General Washington did not; neither did Mr. Adams, Mr. Jefferson, or Mr. Madison, who were his predecessors in the Presidential office. Has any other officer of the Government had an equal amount? I believe not. Confident I am that the Secretary of State, the Secretary of the Treasury, the Secretary of the War, or Navy Department, or Attorney General, nor any member of either House of Congress, has received a sum by any means comparable to that which has already been paid to Mr. Monroe. Why, then, should it be said that this distinguished individual—for distinguished I admit him to be—has not been duly compensated for his services? Why should the Government be reproached, as it has been in many places, with turning a deaf year to his well-founded complaints? Sir, I deny the correctness of these allegations. I contend that full, ample, and complete justice has been already done to him;

that the Government has treated him, not only with justice, but with generosity, reference being had to the law and usage which regulate and control the settlement of accounts in all analogous cases.

It is *prima facie* evidence against the justice of this claim, that Mr. Jefferson refused to allow it. In his administration, the greater part of the service was performed. He best knew the value of those services, and consequently could best measure the amount of compensation to which the individual who rendered them was entitled. After the lapse of twenty or thirty years, when only a few, if any, of us can have personal knowledge of the transactions referred to, it is not in the nature of things—it is, indeed, impossible—we should be as well qualified to appreciate the merits of the individual, or the value of the services he rendered, as those who were contemporary with him; who were eye-witnesses of his labor; who had the kindest feelings towards him; and who had ample power to remunerate him for every sacrifice. This fact of itself raises in my mind a strong presumption against the justice of the claim, and, unless it be countervailed by evidence of greater weight, I should think the House would be indisposed to make the allowance. But the facts and circumstances of the case, as far as I have been able to comprehend them, go to fortify, not to weaken, the presumption. This, sir, I shall now attempt to show you.

Mr. Monroe went as minister to France in 1794, and returned in April, 1797. This, in the documents before us, is called the first mission; and, in consequence of it, he exhibited an account against the Government, through his agent, Mr. Dawson, amounting in the aggregate to thirty-eight thousand six hundred dollars and sixty-seven cents. This account, I apprehend, was paid at the time of its presentation, as no proof of a contrary import is to be found among the papers submitted to us for examination. Mr. Monroe, however, complains, that, in settling the account, injustice was done to him in several particulars, which I will endeavor to state in the order in which they are presented.

He alleges that his pay as minister was made to end on the 6th of December, 1796, when he received his letter of recall, whereas it should have been extended to the 1st of January, 1797, the time when he obtained his audience of leave, making a difference of about twenty-five days. It is not necessary, nor shall I attempt, to deny the correctness of the position here assumed. It might have been more proper to continue his pay till the audience of leave, than to stop it precisely on the day of his recall. But the error, if it was one, was caused by Mr. Monroe himself. In the account presented by his friend, Mr. Dawson, Government is charged with his pay only to the 6th of December, 1796. At the time the account was settled, it seems Mr. Monroe himself did not believe he was entitled to pay up to the 1st of January, 1797: for, if he did, why was it not so stated?

In the letter of Mr. Anderson, Comptroller of the Treasury, it further appears Mr. Monroe was the cause of this error. Referring to this item, in a letter to Mr. Monroe, the comptroller says: "The mistake or error in the settlement of your account, as before stated, appears to have resulted from the date of your letter to the Secretary of State, advising him of the time at which you had received his letter of recall, and which must have been taken as the time at which you had your audience of leave. This appears to me as the only rational mode of accounting for the departure, in the settlement of your account, from the general rule which had been observed in the settlement of the accounts of our other foreign ministers."

No blame can, therefore, attach to the Government for the existence of this error. Mr. Monroe was the only person who had knowledge of the fact, and who was competent to correct it. If he chose to be silent, he ought in justice to take all the consequences, for no one could com-

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pel him to speak. But we have his own authority for saying the accounting officers of the treasury did remedy the mistake as soon as it was known to them. On page eleven of the documents communicated to Congress in 1825, Mr. Monroe says, in a note: "It is proper to add, here, that that error was then corrected, that is, in 1817, and the allowance was then made to me for the interval between the 6th of December, 1796, and the 1st of January, 1797."

I have looked through the documents, hastily, it is true, but with some attention, and I have not seen that the accounting officers received any information from Mr. Monroe, which would enable them to correct the error, prior to 1817. If any injury has resulted to him, it was the direct and necessary consequence of his own act. He alone was the cause of it, and he alone must bear it. He cannot and should not claim the right to devolve any responsibility upon the Government, which was ready and willing at all times to do him justice.

The second difficulty growing out of the first mission to France, and of which Mr. Monroe greatly complained, was this: It appears, as above stated, that he received his letter of recall on the 6th of December, 1796, but he did not obtain his audience of leave till the 1st of January, 1797. Instead of returning home immediately, he thought proper to remain in France till the 20th of April, 1797, and for this delay he raised an account, and demanded from Government pay for nearly four months of additional service. But had he a right to do this, or was Government bound to acknowledge any such obligation? Certainly not. By order of the President of the United States, his diplomatic functions ceased on the 1st of January. He was bound to obey that order, and could not prolong the term of service beyond the period fixed by his Government. As a minister, no intercourse with France was entertained by him subsequently to this time, and the United States derived not a single advantage from his delay in returning home. It must then be considered as a measure adopted by Mr. Monroe, from a regard to his own private convenience or personal accommodation, with which the public had nothing to do.

In support of this item, it has been said he could not return home at this inclement season of the year. But we know vessels now sail at all times, and that recently, within the last month, there have been numerous arrivals from Europe. As to the difficulties growing out of the war, or the blockade of the French coast, I am inclined to think they existed more in imagination than in fact. From no part of the evidence adduced, can I discover that he ever made one effort to obtain a passage between the 1st of January and 20th of April, 1797; on the contrary, in the documents submitted to the committee in 1825, page 4, he says: "I believe the fact to be, that, had I been willing to have encountered a winter's passage with my family, I could not have procured a vessel to bring us home." This I take to be a virtual admission of the fact that no effort was made to obtain a passage. Then all the reasons assigned for the delay, such as the war in Europe, the disturbed state of our commerce, the blockade of the French coast, &c. &c. amount to nothing; for, let those difficulties be what they might, no attempt to surmount or overcome them appears to have been made; and the detention must be regarded as his own voluntary act.

Under these circumstances, when the charge of detention from the 1st of January to the 20th of April was presented, what was the duty of the accounting officers of the Treasury Department? Could they allow it, or were they bound to reject it? I answer, they were bound to reject it. There was no law or usage to justify such an allowance. In the cases of the other ministers, which have been relied on as precedents to support this charge, it will be found that they were engaged in public business; that they were employed during their detention in corre-

spondence with the Governments to which they were accredited. Not so with Mr. Monroe, who, while he was detained, led the life of a private gentleman; that is, as far as his public functions were concerned: he entertained no correspondence with the Government of France; he was absolutely forbidden to do so. Yet, notwithstanding the inadmissibility of this claim, according to any previous law or usage, Congress, in 1826, influenced by a spirit of generosity towards Mr. Monroe, passed an act granting it to him to the amount of two thousand seven hundred and fifty dollars, with interest on the same from 1810 up to the time of payment.

Another subject of complaint is, that the contingent expenses of the first mission to France were not paid. But here again it may be asked, who was to blame for that? In the account presented by Mr. Dawson, the whole charge for contingencies was then paid. If any other or greater account existed at that time, it was known only to Mr. Monroe, and, as he failed to produce it, the fault was his own. The Government could not be required, by any principle, to settle an account of which it had no knowledge. It seems to be supposed, however, that a greater charge was made, but payment was refused, because regular vouchers were not produced. This, I contend, was perfectly right and proper. Every officer is presumed to know the laws and usages of the country which employs him; and there is an implied consent on his part that he will strictly conform to those laws and usages, whatever they may be. The rules and regulations which govern the settlement of accounts at the departments, require that proper vouchers should be produced in all cases where it is practicable; that, if this cannot be done, there should at least be a detailed statement, showing the items of expenses, and the nature of the service they were intended to promote. No right to reimbursement for contingent expense can attach to any officer who does not comply with those regulations. Not to comply is a forfeiture on his part of all claim to remuneration, and puts it in the power of Government either to pay or not, at its own discretion. Before Mr. Monroe could rightfully demand payment for his contingent expenses, he should have produced the vouchers, or made out a detailed statement, for in no other way can the Government maintain any sort of control over the disbursements of its officers. Such vigilance in settling accounts must always be exercised as a matter of right, and of useful necessary policy, not to be dispensed with. But here again the lenity and generous indulgence extended to Mr. Monroe are rendered conspicuous. In 1826, Congress allowed him, under the head of contingent expenses, in the first mission to France, one thousand four hundred and ninety-five dollars and eighty-five cents over and above the first payment of one hundred and ten dollars, to which alone he was justly entitled by any previous law or usages applicable to his case. This allowance also drew interest from 1810 till the time of payment.

We come next, said Mr. W., to the second mission to Europe, commencing on the 12th of January, 1803, and ending on the 15th of November, 1807. At the time the appointment was made, Mr. Jefferson informed Mr. Monroe that he should go out as envoy extraordinary and minister plenipotentiary to Great Britain; that he would also receive a commission as special minister to France and Spain; that the salary and outfit would be paid him only on account of the general mission to England; and that, while performing the duties of a special mission, his expenses only should be allowed. This, then, was the contract: it was the understanding of the parties at the time, and must be taken as the law of the case.

In order to bring the subject more distinctly to view, let us for a moment examine the items of the account, as settled at the State Department, by Robert Smith, Secretary, on the 5th of May, 1810.



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*The United States to James Monroe, Dr.*

1. To outfit as minister to France, -	\$9,000 00
2. To contingent expenses of that mission, viz. for copying letters, papers, &c. having no secretary of legation there; for newspapers, stationery, postage of letters, including a payment of Mr. Deneux by me of 251 livres, as bearer of a copy of the treaties to the United States, and for usual presents, 2,952, at 108s. -	546 66
3. To outfit as minister to England -	9,000 00
4. To contingent expenses in England, being for presentation presents, christmas boxes, postage, printing passports, stationery, and periodical publications, estimated at -	5,539 00
5. Salary as minister, while employed in France, England, and Spain, from January 12, 1803, to November 15, 1807, four years ten months and four days, at \$9,000 per annum, -	43,598 63
6. Expenses incurred in a special mission to Spain, beginning 8th October, 1804, and ending on the 17th July, 1805, including salary to secretary, with allowance for his coming from the United States to London, and following me to Madrid, and returning to the United States -	10,598 28
7. Extraordinary expenses of the mission to Spain, not included in the preceding item, viz. At Paris, on my way to Madrid, 4,159 livres. At do. on my return, - 650 Equal to - - 4,809 55 At Madrid, (Aranjuez,) and on the road - - 256 -	1,146 55
8. Extraordinary expenses attending my detention in England, on my return from Spain, after receiving permission of Government to return to the United States by the seizure of our vessels and the negotiations which ensued.	
9. To a quarter's salary for returning home, -	2,250 00
10. To amount paid Benjamin, the Jew, on account of the Tunisian ambassador, 200 pounds sterling -	888 88
11. To amount paid Charles Brenton for expenses of himself and others attending the trial of Captain Whitby -	400 00
	<u>\$82,963 00</u>

Here we see, sir, notwithstanding Mr. Monroe was told he should be paid only his expenses on the special mission to France, that an outfit was allowed him of nine thousand dollars, and an additional charge for contingencies of five hundred and forty-six dollars and sixty-six cents. For the special mission to Spain, he appears to have been satisfied with his expenses; and well he might: because that charge, with another, on account of the extraordinary expenses, formed an aggregate of eleven thousand seven hundred and forty-four dollars and eighty-three cents, which was a good deal better than a simple outfit of nine thousand dollars. Why a different rule was adopted in these two cases, I am unable to perceive, unless we suppose that in the mission to France it was better for Mr. Monroe to receive an outfit, and in the mission to Spain to charge for his expenses. If such was the fact, it is another proof of the great liberality with which the Government has always been disposed to treat him. He complains that the ninth item, being for extraordinary expenses incurred by detention in England, was not paid him at the settlement in 1810. But he himself had not then fixed the amount; the charge is not run out with any amount—it is a blank.

He alone knew what these extraordinary expenses were, and it was his duty to ascertain and state them. No officer of Government could be required to guess at the amount, and to pay him according to that uncertain, whimsical mode of doing business. But, sir, if the charge had been rendered in due form, the treasury officers ought not to have paid it, because it would have been doing an act wholly illegal and unauthorized. Let it be remembered, that there were distinct and separate items in the account for every other expense which it had been usual for the Government to allow. This charge for extraordinary expense was equivalent to a direct and positive increase of salary, which no Executive officer, I hope, will ever deem himself competent to grant. Congress alone could do it; and Mr. Monroe ought not to think himself injured because the accounting officers refused to exercise a power which did not belong to them. The committee, in 1826, fixed this allowance at ten thousand dollars, which made the salary about thirteen thousand dollars per annum, instead of nine thousand, as prescribed by law. Now, I ask whether any power in this nation, except the legislative, could or should be competent so to enlarge the salaries of our public ministers? Unquestionably not. A discretionary power to that extent would be formidable indeed, and ought not to be confided to any set of accounting officers. And yet, because they did not assume a power which Congress alone can exercise; because they did not ascertain the amount to be paid, when Mr. Monroe ought himself to have defined the charge; some people to think he was greatly injured, and must be allowed to claim damages. Sir, I cannot subscribe to such an opinion.

The amount paid to J. Hicks for demurrage, forms another subject of complaint in the second mission. In the documents, page 4, Mr. Monroe informs us that "this item was casually omitted in the settlement." Here, then, it appears, as in the instances before mentioned, that the error was committed by himself. Congress, however, in 1826 allowed this item, and interest upon it from 1810 to the time it was paid.

A further and more conclusive evidence of the liberality of Government towards Mr. Monroe, is the payment to him of interest on all claims which either Congress or the accounting officers thought admissible, according to any rule which had ever been practised. The general rule is, that Government does not pay interest, and yet, in his case, there was a relaxation of the rule, which shows he has been an object of great and peculiar favor. Where the items were allowable, he has failed to produce them, and thus put it out of the power of Government to settle them; where they were not allowable, but required the intervention of a law to direct their payment, we see that he kept them back, and declined, or positively refused, to present them. Yet, in all these instances, Congress, with a spirit of indulgent generosity, has paid both the principal and interest, in the manner I have detailed.

I have said Government does not pay interest on claims. Why should it be so? Because Government is a moral person, always ready and willing to pay its debts. If any citizen is delayed in the payment of his claim, it is because he does not produce it, or does not offer the requisite evidence to sustain it. The fault, then, is his own, and he should not be permitted to take advantage of it, and mulct the Government in damages. If such were the case, individuals who have claims would never bring them forward, because they would constitute a valuable kind of stock, if permitted to draw interest while they had been reserved, or kept back in the hands of claimants. The principles which require the payment of interest between man and man, in private life, do not apply at all to the relation which exists between the Government and its citizens. Government delights in doing good: it has no spirit of selfishness; it has no use for money but to pay its debts; it enters not into traffic or speculation of any kind. But

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between man and man this is not the case; there is a spirit of selfishness, traffic, and speculation carried on; the payment of debts is withheld, in order to use the money in some other way, and hence it is right to charge interest. If, therefore, the claims of Mr. Monroe had been just and proper—had he brought them forward in due season, and sustained them by the requisite proof, they would have been promptly paid. At that time, I mean in Mr. Jefferson's administration, from 1803 to 1807, there was a redundancy of money in the treasury, and we were as much puzzled to find out ways and means to get clear of the surplus as we are at the present day. But he tells us, in the documents, that he reserved or held back these claims till a more suitable time to present them; in other words, as I understand it, till he should be out of office. Mr. Pleasanton, the Fifth Auditor, also gives the same reason. Now if these claims were not paid because Mr. Monroe was in office, is it right he should be allowed interest on that account? The United States did him a favor by keeping him in office, and now, forsooth, we are called upon, as a wrongdoer, to pay interest. The continuance in office, if, in fact, it prevented the settlement of his claims, must be regarded as his own act; otherwise you place the Government in the awkward predicament of being obliged to pay interest on damages, because they had previously done him a favor by keeping him in office. In no event, therefore, as I can perceive, ought interest to have been allowed. The whole amount paid him in 1810, and by the act of 1826, in principal and interest, on account of this second mission, embracing a period of four years ten months and four days, is about one hundred and five thousand dollars. Gentlemen will not, they cannot now say that Government has dealt with a sparing, niggardly hand. But the bill before us proposes to do a great deal more, and to allow him sixty-seven thousand nine hundred and eighty dollars and ninety-six cents, in addition to what he has already received.

The first item I shall notice in this new account, is the charge for the purchase of a house in Paris, during the first mission to France, stated at ten thousand dollars. He was not authorized to make the purchase, and the United States have derived no benefit from it; and this, to my mind, is a sufficient objection to the claim. If, as is alleged, the house was purchased by him for the Government, did he also sell it for the same purpose? No; he sold it for himself, and put the money in his own pocket—consequently, he purchased for himself. Had he purchased for the United States, he would have been prohibited from selling without permission; and whatever obligation was imposed on the Government by the purchase, was released by the sale. The whole affair, then, from beginning to end, was a private transaction, and Mr. Monroe, according to every principle, must bear the loss. From the testimony of one of the witnesses, whose name I do not now recollect, it appears that an extravagant price was given for the house. He states that the same property had been offered to him, but he would not buy it, because he could purchase other property of the same kind on better terms. Had Mr. Monroe designed to benefit the Government in this way, he should have known that he was making a good bargain; that he was purchasing on the cheapest possible terms. Not having done so, would be a great objection to the course pursued, and consequently the claim he makes, in the absence of every other reason. The purchase by the United States of a house at the Hague affords no excuse or precedent for Mr. Monroe in this instance. As well as I recollect, the house at the Hague was bought during the revolution, and by the authority of the United States. They then believed it would be politic to have something like a permanent foothold in Holland, which was disposed to be friendly to us in that day of trouble, and from whence we expected to draw our greatest supplies of money to carry on the war for inde-

pendence. But the same circumstances, the same urgent necessity, did not exist when Mr. Monroe was minister in France. Besides the want of authority, the purchase would have been impolitic. Our Government would not confine their ministers in St. Petersburg, Paris, or London, to a residence at one particular spot, any more than they would compel the officers at home to live in one particular street or house in the city of Washington. What would suit one might not suit another, and hence it must be left to the discretion of each individual to select for himself. If Mr. Rives were now to buy a house in Paris, or Mr. McLane in London, and were to lose money in the speculation, should either of these be permitted to throw the loss on his Government? No one, I presume, will contend that he ought, and yet he has exactly the same right to do it as Mr. Monroe had in 1794.

Another item of the new account, to which I beg leave to call the attention of the House, is number ten of the report of the committee, made at the last session. It will be observed that number nine is an allowance of interest "on outfit of second mission to France, from January, 1803, to May, 1810, three thousand nine hundred and fifteen dollars." The tenth item is for interest on the foregoing sum from May, 1810, to March, 1829, four thousand four hundred and twenty-three dollars and ninety-five cents. Now, sir, I have never before known any case, even between individuals, where compound interest was required to be paid, and least of all should it be required of the Government.

[Mr. MERCER explained: He said the tenth item had been struck out by the committee, and he had so stated in the remarks submitted to the House.]

Mr. W. replied, that the difficulty of hearing, in the House was great, and, although he had endeavored to catch every word spoken by the gentleman, that part of his remarks had not been heard. Not doubting the fact to be as stated by the gentleman from Virginia, he [Mr. W.] would forbear to say any thing further in relation to the tenth item in the new account. For, if the committee who had reported the bill, had themselves become convinced that it was wrong to make the allowance, any thing I might be disposed to say in regard to it would certainly be superfluous.

As the other items in the new account fall generally within the range of the objections already stated, I will proceed, said Mr. W., to notice the charge made for commissions on the money borrowed during the late war. This amounted to thirty-seven thousand twenty-eight dollars and ninety-three cents (\$37,028 93); and he was wholly at a loss to perceive how the Government was so benefited by the transaction as to throw upon it an obligation to pay that sum to Mr. Monroe, who, at the time, was an executive officer of the United States, and, as such, bound to exert all his influence to accomplish the objects the nation had in view. If he interposed his personal responsibility, and thereby conferred a benefit upon the country, I agree fully that Government ought to save him from any ultimate loss. But I do not understand this to have been the case: on the contrary, he has not lost a cent by the liability he assumed to obtain money, either from the banks or individuals. In that respect, he is perfectly safe and sound—free from all detriment or injury whatsoever; and I repeat that he was bound to exert all his official influence to further the objects the country had in view. With that influence the Government had clothed him, to be exerted for that particular purpose; and, if he had not done so, he would have failed to perform his duty—he would have betrayed the public confidence. But who ever thought that because he acted the part of a vigilant, faithful public functionary, he would be entitled to more compensation than the salary allowed him by law? In fact and in truth, the salary ought to have been withheld from him, if he had not exerted all his faculties, both political

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and physical, to advance the cause of his country—of that country which had confided in him, and promoted him to office, in order to be benefited by his entire devotion to the public interest.

The allowance made to Daniel D. Tompkins is pleaded as a precedent, but I do not think the cases are analogous, and certain I am Congress never intended by that example to sanction any such claim as the present one. To bring this subject more distinctly before the House, I must refer to the law passed in February, 1823, for the relief of Daniel D. Tompkins, and some other documents connected therewith. It will be found in the seventh volume of the Laws of the United States, page 331, and, being very short, I will read it, as follows: "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the treasury be, and they are hereby, authorized to adjust and settle the claims of Daniel D. Tompkins, late Governor of the State of New York, on principles of equity and justice, subject to the revision and final decision of the President of the United States.*"

Now, sir, what are we to understand as the true import and meaning of a law which directs the settlement of an account upon principles of equity and justice? Such a law relates only to the proof, to the degree of evidence which shall be received at the department, and not to the claims or the items composing the account. If the party can adduce no evidence of higher dignity, he is at liberty to resort to his own oath, but he is not permitted to make any unusual, extraordinary, or unlawful demand upon the Government. Finding this to be the case, it seems resort was had by the accounting officers, or by the President, who supervised and controlled them, to the report of the committee to ascertain the true extent and meaning of the law. Whether this was right or wrong, it is not necessary now to inquire. The committee, after stating the facts, and assigning a variety of reasons, come to four distinct and separate resolutions, to the second of which I beg leave to call the attention of the House, in the following words, viz. "That it would be just and equitable to allow a reasonable commission on all moneys disbursed by him (Governor Tompkins) during the late war." The meaning of the committee in this resolution cannot be mistaken. They evidently intend, and so express it, that Governor Tompkins shall be allowed a reasonable commission on all moneys disbursed or paid out by him, and not on the moneys received or loans negotiated by him. The disbursements is one thing, and the receipts another; and it never entered into the mind of the committee to believe for one moment that Governor Tompkins had better credit, or could obtain money on more reasonable terms, than the whole nation. But it was known that he acted as a sort of paymaster general to all the troops in the State of New York; and for this kind of service, which he was capable of performing, and which he did perform, the committee intended to remunerate him by allowing a reasonable commission. The whole reasoning of the committee, and the resolutions they reported, show that this, and this only, was the idea intended to be conveyed. But what says Mr. Monroe in his message on the 28th of April, 1824, informing Congress that the accounts of Governor Tompkins had been settled? In the Journal of the House of Representatives, page 464, he says: "On the second head, that of a reasonable commission for his disbursements during the late war, I have allowed him five per cent. on the whole sum disbursed by him, amounting to ninety-two thousand two hundred and thirteen dollars and thirteen cents. I have made him this extra allowance, in consideration of the aid which he afforded to the Government at that important epoch in obtaining the loan of a considerable part of the sum thus disbursed." Here the idea of allowing a commission on money borrowed or loans obtained is introduced for the first time. It is not to be seen in the law itself,

the report of the committee, or any other document I have had an opportunity to examine, except in the message of the President. It is, then, a fair inference to assert that, in making the allowance upon that principle, he entirely mistook the laws, and the extent of the authority with which he had been invested. As great as is the difference between receipts and expenditures, so widely did the President misjudge his powers, and misinterpret the designs of Congress. When, therefore, you tell me Mr. Monroe must be paid according to the rule adopted in the case of Governor Tompkins, and be allowed a commission on the loans obtained, I answer, no. The cases are not analogous. If Governor Tompkins was allowed a commission on receipts, it was because the law was misunderstood, and consequently misapplied.

But if Congress had intended to allow a reasonable commission to Governor Tompkins on the sum obtained, still it would not follow that Mr. Monroe should have the same allowance. The latter was in the cabinet: he was a high officer in the civil department of the Government, and bound to act as he did: whereas the former was not so engaged. This difference in the situation of the two persons would manifestly sanction an allowance to the one, and a rejection of the claims of the other.

I have, sir, thus concluded an examination of the several items constituting the demand against the United States; and, in no instance, have I discovered that it is well founded. On the contrary, it appears to me wholly unsupported by the laws and usages of the Government, in all analogous cases; and that to pass the bill would, in effect, be a gift or gratuity bestowed upon Mr. Monroe. Are we prepared to make a similar grant to every other individual who may be disposed to ask for it? If we are not, then I contend we should not make it to him; because that principle of equality, to which I have alluded as the essence of our whole political system, utterly forbids it. No man, or set of men, should be entitled to separate or exclusive privileges or emoluments. What is granted to one as a matter of right or of favor, should be granted to all; otherwise the course of legislation will be at war with the nature and spirit of our republican institutions. The precedent proposed to be established in this case is dangerous, and the more so, because the individual favored by it has been eminently distinguished among his fellow-citizens. It is always in behalf of such characters that pernicious examples are set. An obscure, private individual could not command influence enough to carry through this House measures which are inexpedient, impolitic, or forbidden by the genius of our system of Government. A bad or ill advised measure, in the case of distinguished persons, will always be more known, and, of course, the evil consequences resulting from it will be more widely diffused. In this respect, also, the precedent is more dangerous.

The gentleman from New York [Mr. CAMBRELENG] says the eyes of the world are upon us; that we should make the appropriation to avoid the reproach which will be cast upon us if the claim be rejected. But, sir, shall we be required to abandon our principles because the eyes of the world are upon us? No; certainly not. But, on the contrary, we should, for that very reason, be the more determined to support them. Foreigners reproach us for many things: for our republican Government; for the economy with which it is administered; for the plainness and general frugality of our people. But shall we, on that account, change our Government, and establish monarchy? Shall we introduce extravagance into the administration of public affairs, or wasteful profusion of expenditure into the pursuits of private life? No doubt, foreigners would gladly see us imitating them in these respects; for then they would think we had become converts to their systems, and the example we have been professing to hold out to the world no longer dangerous to them. Whence those portentous signs—those threatening indications wit-

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nessed at this moment, throughout the European world? Is it not that the people are about to commence a struggle for their rights; that they are willing to encounter all the perils of revolution, in order to redress the wrongs and correct the evils of legislation as it has existed among them? With them, legislation has been for the benefit of the few, to the prejudice of the many; and at the moment when, by a mighty effort, they are endeavoring to arrest that evil tendency in their affairs, we are called upon to pursue the very course which has been so disastrous to them. Is it wise that we, at this critical juncture in the affairs of the world, should hold out such a lesson—such a practical exemplification of our doctrines—to the view of mankind? Will not the advocates of free Government be disheartened by it, rather than strengthened in their faith, and stimulated to further efforts in the great cause of human liberty which they have undertaken to support? Pass this bill, and, my word for it, our beautiful theories, of which we have boasted so much, will be regarded as a vain delusion; the precepts we have inculcated, as so much idle profession, intended to deceive and mislead others, while we ourselves are unwilling to practise them. The world will see through this disguise, and we must expect to meet the odium it will occasion. No, sir, let us pursue a different course—let us act up to the letter and spirit of our professions—let our example go forth to the world in all purity and perfection—unimpaired by any act of insincerity on our part. Then we may expect it to be regarded by others, and to have that influence upon them which may be necessary to support the great cause of free and equal Government.

It has been said, Mr. Monroe is now in reduced or embarrassed circumstances. If this be so, it is much to be regretted: but whose fault is it? Are we not equally bound to provide for any other one whose circumstances are similarly embarrassed? On this principle, there would be demands enough against the treasury, at every session, to exhaust the whole revenue of the country? Instead of transacting the business of the people whom we represent; instead of looking to the great interests of the nation, as they may happen to be affected by questions growing out of our foreign intercourse or views of domestic policy, we should be exclusively devoted to the consideration of private demands, made not upon the justice, but the charitable feelings of Congress. The extent and pressure of these demands would be so great in a little time, that they could not be met by the ordinary revenue of the Government; and new taxes or burdens upon the people must necessarily be imposed. It is obvious that continuance in such a course would be impracticable—nay, sir, impossible. What, therefore, cannot be pursued or followed out to the end, should never be commenced.

But I am unwilling to admit, for one moment, that any citizen, situated as Mr. Monroe has always been, should be at liberty to demand from the Government any further compensation. Every one who takes an office is presumed to know the salary attached to it. The Government promises him the salary, and nothing more; and when he enters upon the discharge of his duty, it must be supposed he is satisfied with the assurance thus given. Let him, then, be content with this salary, and regulate his expenditures accordingly. It is our policy to allow moderate but sufficient salaries, in order to preserve those habits of frugality which should characterize every republican people. The pomp, and splendor, and folly of European courts should not be attempted by any officer in this nation; and, if his disposition will not restrain him, the limited amount of his salary should do it. But, pass this bill, and what will be the consequence? In effect you proclaim to the world that every officer is at liberty to expend just as much as he pleases; that his habits of waste and extravagance, if he has any, need not be corrected; that if, by improvidence in his past life, he should become indigent or em-

barrassed in his old age, Government will sustain and support him. Such must be the calculation of every one who takes an office, and has a disposition to expend more money than the salary allowed by law. The country has granted to Mr. Monroe all the honors and emoluments which could be bestowed upon him. He has sought every thing, and has in fact obtained every thing. I, then, cannot admit, that, after he has been thus gratified with every thing he desired; after he has been advanced to every station of trust and profit which could be conferred upon him, he should be allowed to turn upon us again, and say, you have not yet done enough for me: you have not paid me as much as I ought to have had. He knew the salary attached to every office he has filled; and at this late day he should not be permitted to plead that it was not enough; that he is entitled to additional compensation—in other words, to institute an action of damages against the Government on account of the favors which the Government has bestowed upon him. Although he may be embarrassed, still I think it may be asserted that he is better provided for than ninety-nine out of a hundred of the constituents of every member on this floor; and there is not the least danger he will ever want any of the necessities or luxuries of life.

Mr. W. concluded, by saying, if any thing had fallen from him calculated to wound the feelings of the friends of Mr. Monroe, he begged them to be assured he did not design his remarks to have that effect. It was altogether foreign from his purpose to excite the feelings of any gentleman, in discussing this delicate question. He had spoken with no more freedom than the case required; and so much as the case required, he should always feel bound to use.

Mr. PEARCE, of Rhode Island, followed. He said, Mr. Monroe, in his communication addressed to us, this session, in his last appeal to Congress, says, "I wish it to be distinctly understood, that, in regard to my claims, I ask no indulgence or favor; that I ask nothing which is not strictly due to me, on sound principles, and which my country shall, on full consideration and unquestionable evidence, think that it owes it to itself to allow me." He closes that communication, and takes his leave of us, in similar language—"In the decision on my claims, (says he,) I repeat that I ask no favor or indulgence; that I ask nothing but what shall appear to be strictly due to me, on sound principles, on full consideration, and unquestionable evidence, the withholding of which for so long a time has subjected me to pains and troubles which may readily be conceived." Does, then, Mr. Monroe come before this House different from other claimants? And shall not his claims receive the same respectful consideration, candid examination, we are in the daily practice of giving to every other man's? That he asks no more, we have his written declaration; whether this is to be denied him, is the question to be settled.

I did hope, Mr. Chairman, and I did expect, before I witnessed the course of this debate, that, as Mr. Monroe asked no more than was accorded to every one who knocked at our door, what was asked would be given; that as he expected no favors from a long and faithful discharge of public services, and the important stations filled, that because he had rendered those services, and filled those stations, in considering a claim that he had preferred against the Government of his country, they would not be referred to for the purpose of prejudicing that claim. Our fears to do wrong should not so operate as to cause us not to do what we may know to be right. But, sir, it is with regret I say, the tendency of the acts of gentlemen who have participated in this debate, (I impugn the motives and intentions of no one,) has been such as to deny to Mr. Monroe that hearing to which no one in his place here would dare to say there was a man in this nation not entitled. The amount of money he has received from the public treasury has been mentioned, and we have been told that he has been for a long time in the employ of the

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Government of the United States, longer than any other man. For the argument, be it so. If he was at the head of one of the departments for six years, did he receive as a compensation for his services more than was allowed by law? If he was President eight years, was he paid more than his predecessors, Madison, Jefferson, or Washington? If he was twice Governor of Virginia, was he not paid as the other Governors of that State had been? If, in our revolutionary struggle, young as he then was, he fought our battles, and moistened the soil of New Jersey with his blood, did he then receive, or has he since claimed, more than what was allowed to others of the same grade? Sir, what do these arguments lead us to? If the Government of the United States contract with one of its most distinguished citizens for the performance of certain acts, the compensation for which is by law regulated, and the contract in all its parts has been complied with, and the money paid, and there is afterwards between the same parties another contract for other services, a compliance with the terms of the first, according to the declaration of gentlemen, (I will not say argument,) is a full discharge of the second. This is the effect of their reasoning; it has nothing to do with the question now before this committee. No man, Mr. Chairman, has heretofore thought that, because by his meritorious services, great experience, and superior qualifications, he had, in the estimation of his fellow-citizens, some claim for important trusts, that claim, in regard to his other rights, should operate against him; but this is the measure of justice to Mr. Monroe. If gentlemen be disposed to do what they have professed a willingness to do, why have they resorted to such remarks? The gentleman from North Carolina, [Mr. WILLIAMS,] who has just resumed his seat, has reminded the committee of what a late Governor of Virginia (Mr. Giles) has said of Mr. Monroe, in regard to the amount of money he has received from the public, and, in telling us one thing that gentleman said, has, no doubt, whether he so intended or not, reminded every member of this committee of another thing that Governor Giles said of Mr. Monroe, that he had always been a public pauper, and that the United States must, as they always had, continue to support him. What is the effect of this but to enlist the prejudices of every devoted friend of the late Governor of Virginia against the claim of James Monroe? This does not agree with the professions of the gentleman from North Carolina, made when he commenced his remarks, and is hardly excused by his apology, made when he concluded them. His greatest apprehension at first appeared to be that Mr. Monroe's claim would be more favorably considered than other men's, from the great services he had rendered, and high offices he had filled: when relieved of that, I submit it to that gentleman whether it was fair, or just, or comports with his ideas of what is correct, by any allusion of his, to awaken prejudices that will deprive Mr. Monroe's claim of that consideration we are bound to give every man's in the nation.

We are not now called on to pass upon the bickerings of two men, one now in the grave, and the other upon the brink of it; in other ages and other times, justice will be done, as I hope, to both, when the passions of the moment shall have subsided, and when we, too, who may now have our prejudices and personal predilections, shall be gathered to our fathers. Then, perhaps, some new reputation and fame will not depend upon what they might have said against the purity of James Monroe's character, but upon their being born in the same State, and living in the same age with him.

But, Mr. Chairman, there are other objections to this claim, which ought to be considered by some one, before the merits of it are examined, as well from their peculiar character, as the quarter from which they come. I must confess I was surprised to hear such objections from such a source; from men who, to do them justice, I ought to

say, for the last ten or twelve years have watched the treasury with Argus eyes, but men, from my knowledge of them, I did suppose were not willing to arraign, without good cause, the motives or conduct of others. Sir, I heard with regret the gentleman from Ohio [Mr. WHITTLESSEY] say, that because we had received from the citizens of Albemarle county, Virginia, the county in which Mr. Monroe was born, and from the citizens of the city of New York, where Mr. Monroe now is, petitions urging upon us the necessity of considering and examining his claim, and nothing more, that those citizens were Mr. Monroe's creditors, and were consequently actuated by sinister motives. Sir, this must have been said without much reflection: it was well enough for the gentleman, because he opposed this claim in 1826, to oppose it now; but he ought at least, more especially as he had no proof to the contrary, to have had charity enough to have believed that the citizens of Albemarle and of New York might have been actuated by motives different from those which he has thought proper to ascribe to them. He might have supposed that it was known to them, Mr. Monroe had, as he thought, a claim, an honest and legal claim, upon the United States, and all he wanted was a fair, dispassionate, and legal investigation of this claim; and, when he had satisfied himself of this, he might, without any great tax upon his own mind, suppose that the citizens of Albemarle, who know Mr. Monroe best, because they have known him the longest, and have been more closely connected with him than any other portion of this country, the citizens of New York, who know what Mr. Monroe now is in regard to his pecuniary concerns, from seeing him with them, and by this are also reminded of what he once was, might, without being influenced by such motives as the gentleman has ascribed to them, have sent to us the petitions which are now on the files of the House in his behalf.

Mr. Chairman, if the gentleman from Ohio is warranted in his supposition from what he would call testimony, upon what ground do we stand, who may differ from that gentleman on the merits of this claim? Under what imputation does a majority of both Houses lie, who, in 1826, voted for what was then allowed Mr. Monroe? The same insinuations which have been made against the citizens of Albemarle and New York, (and there are the same grounds for them,) can be made against us.

I hope, Mr. Chairman, that the gentleman from Ohio, from further reflection, will conclude that what he has said was gratuitous, uncalled for, and, by evidence before us, unwarranted. We are required to meet another objection made by the gentleman from Ohio, presented as a legal one. By the act of 1826-'7, Mr. Monroe is to be paid the sum of money by that act granted, in full of all his claims against the United States; and because in the passing of that act, in reference to the phraseology of which Mr. Monroe said nothing, and could not say, any thing, because he knew nothing, Congress thought proper to use the language now in use, in reference to all our enactments in regard to claims, "in full satisfaction and discharge of all the claims of James Monroe against the United States," whether it were so or not, he is thereby precluded the right to present the claim now before us. Sir, to every bargain, contract, or agreement; to every lease, relinquishment, or release, I have always been taught to believe there must be at least two parties—one to give or execute, and the other to take or receive, in pursuance of terms previously arranged and agreed on. When did Mr. Monroe, or any one acting in his behalf, any friend of his, say for him, that appropriation for his benefit at the time mentioned should be a full and complete liquidation of his claim? At no time, never—so far from this being the case, the gentleman from Virginia, [Mr. MERRICK,] under whose paternal charge the claim of Mr. Monroe then was, as it now is, declared to the House, that so



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far from the sum then appropriated being in full discharge of Mr. Monroe's claim, so great, as he supposed, would be his dissatisfaction, that he did not believe he would take what was allowed him: he did take it, but not at any time with an acknowledgment that it was in full satisfaction of his claim—all his acts, all the acts of his friends, from that time to this, showed that the amount appropriated was not to his and their minds a satisfaction of his claim. At the next session, his friends from Albemarle petitioned us in his behalf, for the balance; and this petition, if not gotten up at his instance, (I do not believe it was,) it is fair to presume was not presented against his will. Sir, from that time to this, there has been a petition before us in favor of James Monroe. Does this look like a relinquishment of what he considered was fairly due him, and what he was legally entitled to? No, it cannot be so pretended—I was an eyewitness of the mode in which we legislated upon the claim in 1826-'7: the report of the select committee was made at a very late period of the session, and the bill did not come before us until our night sessions had commenced, favorable to any thing but sober deliberation.

At the close of the session, and in the hurry of the moment, the friends of the bill were willing to take any sum rather than continue the whole question to the next session; and I take upon myself to say that, in relation to the amount to be appropriated, there was not a full, or even a deliberate discussion. This claim is not, then, Mr. Chairman, as one gentleman [Mr. CHILTON] has charitably asserted, an afterthought on the part of Mr. Monroe, or any of his friends; nor has the money received been a waiver of what he conceived heretofore, and now alleges to be due him. I therefore submit to the committee, whether there is any good ground for the objection founded upon the appropriation made to Mr. Monroe, as constituting a barrier to the present application; and whether this is an application to indemnify Mr. Monroe for moneys expended in feasting his friends. I will fully consider that, when I come more directly to the merits of this claim. There is one objection more, however, made by the gentleman from Kentucky, which I might as well consider now as at any other time—an objection that applies just as well to any other claim as this; if good in this case, equally so in any other. Why should we, says the gentleman, pay Mr. Monroe, when there are others who have claims upon us we do not pay; the war-worn veteran, the soldier of the revolution? If, sir, this argument is to obtain, we never can pay any one, because we cannot or may not be disposed to pay all at the same time. When the case of the soldier of the revolution is called, we cannot act upon that, because Mr. Monroe has a claim that is not satisfied: we cannot pay Mr. Monroe, because the soldier and others have not been paid.

I believe the gentleman will do me the justice to say that I have gone as far as any one, certainly as far as he has gone, in satisfying what I deemed to be the rightful claims of all the officers and soldiers of the revolution, whose cases have been before us. The gentleman's argument has been one, too, common with all those that have objections to paying any one. Another objection has been made, which claims a moment's consideration; and this, from the lapse of time since the items accrued, this would be tenable, if unexplained, not repelled by facts and circumstances which gentlemen might have acquainted themselves with, if they had read the communication of Mr. Monroe, or attended to the report of the committee. To my mind, sir, satisfactory reasons are given why attempts have not been made to enforce it before. Called from his first mission, under peculiar circumstances, he had, in the first place, to vindicate his character and reputation as a public man, more dear to him than money; and while he was doing that, he was willing the Government should pay his agent what at that time might be in their

own opinion due, rather than cavil with them about it: he, however, gave no discharge, nor authorized any one to be given in his name. He was soon called to the office of Chief Magistrate of Virginia, and had hardly served his constitutional term, before he was called to his second mission. So soon as that was ended, he was again called by the citizens of his native State to the same office from which he was transferred to the departments here, which he left for the office of President of the United States, in which he remained eight years.

He was in public life, with a very small interruption, from the time he was called to his first mission to the end of his Presidential term. After his successor was chosen, then he made out and afterwards presented this claim now under consideration, anterior to which there was no period in which he could with propriety have done it.

Sir, the relative situation of Mr. Monroe furnishes a reply to the objection, and removes the presumption of payment from length of time.

I have now, Mr. Chairman, replied to most of the objections brought against this claim by gentlemen who are opposed to any allowance whatsoever; others will be considered in the examination more directly of the merits of the claim itself. I am sensible I have already trespassed somewhat upon the patience of the committee, but they will bear in mind that I was the first who obtained the floor after these objections were made; and, as a friend of the bill, it was as much my duty to meet them, as it would be any gentleman's on the same side of the question who might succeed me.

The gentleman from Virginia, [Mr. MERCER,] who presented this claim with so much clearness, and urged its adoption with so much zeal and eloquence, certainly did not anticipate these objections; and, if he had, it would not have been his province to reply to them. One word as to the effect of the pending motion. The gentleman from Kentucky [Mr. CHILTON] no doubt thinks there is nothing due James Monroe; but ought he not to have supposed there might be some gentlemen on this floor who might think there was some part of the claim which ought to be paid, though not the whole of it? If his motion prevails, those gentlemen will be debarred the right of moving for the lesser sum, when in their consciences they believe there is something due. Is this the motion, then, which, at this stage of the inquiry and investigation, ought to be made? I think not.

I come now, Mr. Chairman, to a consideration of those items which constitute Mr. Monroe's claim, and will state them as I understand them, before I read them from the committee's report. First, a claim for contingent expenses during his first mission to France, with interest; a claim for allowances after his recall, during his detention in Europe, before he could embark for this country; interest upon the money which he was compelled to hire, in consequence of his outfit not being paid before he sailed from this country; an additional allowance for contingent expenses while in England; losses sustained in the purchase of a house in Paris; money disbursed to, and expenses incurred to effect the liberation of Thomas Paine; and commissions on loans of money to the Government of the United States, obtained by extraordinary exertions and by his personal credit during the late war. These are the principal items of his claim.

As Mr. Monroe's first mission was attended with peculiar circumstances, and at a critical period in the history of France, we must for a moment advert to the situation of that country, to show that his services were extraordinary, his expenses necessarily great, and that no allowance to any minister before, or any similar claim since that period, could form a just criterion by which we can judge of the sum which ought to be paid to him. The French revolution was just over; the nations of Europe were combined to crush the French nation, and they had to

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fight their battles against a world in arms. The operation of their edicts and decrees had brought within their grasp millions of property belonging to the United States, and incarcerated thousands of our citizens. As many who were not imprisoned, were anxiously waiting the fate of their property, then under seizure, there was not in France at that time any consular power established, to release from their confinement our citizens; to claim and effect a release of their property: to assert, and by argument enforce the rights of the United States, required no ordinary talents, no common share of zeal and perseverance, and was consequently the cause of extra expense. Three secretaries were employed by him for a great length of time, houses were rented for their accommodation, and heavy expenses were incurred on their account. Was this necessary? There is not a man who hears me, who will say it was not. For whose benefit? For the people of the United States—for American citizens. Can it be expected that Mr. Monroe, or any other man, situated as he was, could exhibit vouchers for all the expenses which he was compelled to incur on our account, under such an extraordinary state of things?

Sir, I am not surprised that he has a claim for an additional allowance for contingent expenses, but am surprised that it should be no larger than the one presented. The gentleman from North Carolina asks for vouchers. The very nature of the service forbids the production of them. In many of the common and ordinary transactions of life, they are not expected. Are they produced in settling the concerns between ships-husband or owner, and the master, as to many expenses and disbursements between the principal, his factor or agent? No: the gentleman knows they are neither produced nor expected.

[Here Mr. WILLIAMS rose, and said, what he meant by vouchers, was a detailed statement.]

In reply to that, Mr. Chairman, I could say to the gentleman from North Carolina, that it would be just as difficult to produce, and just as unreasonable to expect, this detailed statement, as the vouchers which have been called for. Sir, these contingent expenses are paid to no minister, under any ordinary state of affairs, in consequence of the production of vouchers.

Mr. Chairman, there are some things probable in themselves, and do not require a very great share of proof direct, to command our belief; and there are others in themselves so improbable, we cannot well believe them, when fortified by proofs the most positive. That Mr. Monroe's expenses should have been, during his first mission to France, while at Paris, greater, by the amount stated, than ministers on ordinary occasions, is not only highly probable, but is proved positively by the statements of Mr. Skipworth, Mr. Gelson, and all the other testimony in the case. I could, if it were necessary, take another ground: If Mr. Monroe did not know that the allowance claimed was not only equitable, but legal, would he, is there a man living who has any knowledge of the character of James Monroe, who can for one minute believe that he would, in his old age, in private life, having filled so many offices, having discharged the duties of them with so much honor to himself and credit to the country, thus persevere in a claim that was not absolutely just? He has the feelings of a man, and knows full well the ordeal every one has to pass through, who applies to Congress for the settlement of an account; and, when he came before us, no doubt knew that he would necessarily be subjected to the scoffs and sneers of many whose province it would be to pass upon his claim; perhaps anticipated what has been said by the gentleman from Kentucky, that he was calling on Congress to pay him for feasting his friends in Paris.

With this knowledge of consequences, would this claim have been the second time before us, if it were not in all respects just and equitable? I am satisfied it would not. Well, sir, if money be due, and it has been withheld,

is not interest due as well as principal? But the gentleman from North Carolina informs us that the United States are to be viewed as a moral person, always presumed to be ready to pay what he owes whenever called on—a presumption not warranted by facts—and that consequently no interest is to be allowed on claims against the United States. As this moral person is sometimes guilty of immoral acts, I cannot subscribe to the gentleman's doctrine: he will not say that interest has never been allowed on claims against the United States—look into our statutes, and you can find more than fifty cases in which it has been allowed. If there ever has been any rule on the subject, it has been to suffer each case to depend upon its peculiar circumstances and merits. But why waste time on this question? Interest was allowed on so much of the claim of Mr. Monroe as was sanctioned by Congress in 1826; and our legislation at that time relieves me of some labor in the further investigation of this claim. In 1826, Congress allowed interest on so much of Mr. Monroe's claim as was at that time favorably considered, from 1810 to 1826; their decision is to be at this time respected, or not—if not, then the whole question is now before us; but if, on the other hand, what we have done should influence and direct us in what we are to do, having allowed interest from 1810 to 1826, it appears to me we cannot resist the allowance of interest from the time the claim accrued to 1810. If for one period it be correct, it is equally so for the other. I dismiss, then, this part of the claim. That Mr. Monroe was entitled to an outfit on his mission to France, and that it was not paid until some years after it was due, all will acknowledge: that if, in consequence of its not being paid, he was compelled to hire money in amount equal to that for which he paid interest, to me it is evident that he should be allowed this interest; and it would be no more than indemnity to pay him interest on the sum he paid for interest.

His contingent expenses during his mission to England constituting another item of claim, he takes Mr. King's allowance as a standard for his own; and when it is considered, as the committee have observed, that Mr. Monroe was in England when Europe was at war, when the decrees and edicts of the belligerents were the causes of the seizures and sequestration of our property to vast amounts, and Mr. King's mission was during a period of peace, the standard assumed cannot afford more than a fair allowance. It is not necessary to repeat what has been said of interest, so far as it may be connected with this part of the claim. Nor will I detain the committee but a moment in considering that part of the claim which under the first mission to France accrued after audience of leave, and during his detention in Europe—to leave Europe after he had received notice of his recall, was impossible. The French coast being blockaded, he had no opportunity of doing it—to have continued in France, might have increased in his own country the prejudices against him; and to have left Europe, and embarked for the United States, if an opportunity had offered, as his successor was not accredited, and no communications, but through him, could at that time be received, might have been injudicious. This expense accruing under circumstances which he could not control, the Government in good faith were bound to pay, and interest on so much as has not been paid, according to principles assumed in the allowance of interest on the other items already noticed. Reserving to myself the right of making a few remarks on that part of Mr. Monroe's claim connected with the purchase and sale of the house in Paris, the liberation of Thomas Paine, and money expended on his account, the loans negotiated, I submit the residue of the claim as reported by the select committee as proper to be by us accepted, allowed, and paid, and what will be short of an indemnity for the services rendered, and moneys in good faith expended on account of the United States.

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1. Difference between sum claimed by Mr. Monroe for contingent expenses of first mission to France, and that allowed by Congress in 1826, - - - - -	\$2,019 15
2. Difference between sum claimed by him for contingent expenses of the mission to England, and that allowed by Congress in 1826, - - - - -	1,562 32
3. Interest on the sum allowed in 1826, for contingent expenses of the first mission to France, to wit, the sum of \$1,495 85, from the 15th December, 1796, being the mean period between the beginning and termination of the mission, to December, 1810, when the interest then allowed commenced, - - - - -	1,252 77
4. Interest on the additional sum now proposed to be allowed, to wit, the sum of \$2,019 15, from the same period to March, 1829, - - - - -	3,902 03
5. Interest on the sum allowed in 1826, for contingent expenses of mission to England, to wit, the sum of \$437 68, from the 1st of September, 1806, being the mean period between the beginning and termination of the mission, after the return from Spain, to December, 1810, - - - - -	111 60
6. Interest on the additional sum now proposed to be allowed, to wit, the sum of \$1,562 32, from same period to March, 1829, - - - - -	2,109 13
7. Interest on the sum allowed in 1826, for detention in France, in 1797, after audience of leave, to wit, the sum of \$2,750, from April, 1797, to December, 1810, when the interest allowed in 1826 commenced, - - - - -	2,241 25
8. Interest on sum allowed in 1826, for demurrage paid to J. Hicks, to wit, the sum of \$350, from March 7, 1803, when it was paid, to December, 1810, when interest heretofore allowed commenced, - - - - -	162 84
9. Interest on outfit of second mission to France, from January, 1803, to May, 1810, - - - - -	3,915 00
10. Interest on the foregoing sum, from May, 1810, to March, 1829, - - - - -	4,423 95
11. Interest on the sum allowed in 1826, for extraordinary expenses of detention in England, to wit, the sum of \$10,500, from the 15th September, 1806, being the mean period between the commencement and termination of that mission, to December, 1810, when interest heretofore allowed commenced, - - - - -	2,677 50
	<hr/>
	\$24,377 04

Before we come to a conclusion on the question of indemnity for the loss sustained in the purchase and sale of the house in Paris, let us ask, for whose good did Mr. Monroe act in this transaction? for himself, or for his country? Did he act in good faith? and had he a reasonable expectation the house would be taken by his Government for the residence of future ministers of the United States? Sir, in relation to this transaction, he did not act unadvisedly; he availed himself of the opinions of the most distinguished and enlightened Americans then at Paris; among others, the two gentlemen whose statements are in the documents of the case. From all the lights he could derive, he found the purchase necessary, not only to increase his influence with those in power, but to establish upon a firm basis the favors and esteem conciliated, by means of which he could act, and did act, more efficiently for the American interest than any one could or did anticipate; so much so, as to excite not only the envy, but,

in fact, the jealousy of the citizens of his native country. For whose benefit was this influence exercised? For his country. Shall, then, Mr. Monroe bear this loss? Mr. Chairman, he was not without a precedent. The purchase of the house at the Hague was a case in point. What his Government had done for another minister abroad, acting in good faith, he had a right to suppose would be done in regard to this transaction. But he was suddenly and unexpectedly recalled; he had no time to offer the purchase to his own Government, or sell the estate on favorable terms to any one in Paris. The whole of this loss has fallen on Mr. Monroe, and was partly occasioned by the acts of our Government, the result of an unwarrantable jealousy, founded upon nothing in fact but his great influence at the time with the French nation, never exercised but for his country's good. I do not believe the people of this country are ready to say that he shall bear this loss. The next consideration for the committee is the claim for moneys disbursed for the liberation and aid of Thomas Paine. Mr. Monroe was in France, the representative of the sovereignty of this country; Paine was in prison, had been repeatedly threatened with the guillotine; had once escaped it, according to his own statement, by a providential act; his health destroyed, and his privations and sufferings so severe, that his life was in imminent danger. What was his language and appeal to Mr. Monroe? I am an American—I am a citizen of the United States; I conjure you by the love you bear to that country, whose citizen I am, and to establish whose liberties we both for years have labored—help, extend to me your aid, or I die! Sir, if Thomas Paine had been before unknown to Mr. Monroe, this thrilling and spirit-stirring language could be neither resisted nor disregarded. The magic words, "I am a Roman citizen," in the worst days of Rome, preserved the rights of the individual inviolable, and arrested the arm of him who was prepared to inflict the stripes. Mr. Monroe has been allowed what he paid in effecting the liberation of Madame Lafayette, why should he not be paid his expenses incurred in the liberation of Thomas Paine! Let not the consideration of this question be mingled with the feelings of the day. Whether Mr. Paine was, during our revolutionary struggle, the hireling writer, as has been alleged, or whether his writings on religious subjects have not been the cause of much harm to the world, is not now the question for us to consider; was not, at the time, this appeal a subject of consideration for Mr. Monroe? Ought Mr. Monroe, as our minister abroad, to have done less? and shall he not be countenanced by this Government, and paid for what by him was done? Sir, it would have been an everlasting stain upon this country, if Thomas Paine, an American, had been suffered to die in prison, in that city where the representative of this nation was, without an effort to relieve him. Such was the estimation in which Thomas Paine was held by Mr. Jefferson, if the rumors of the day are to be credited, that long after his liberation he received his aid and support.

The last subject reserved for consideration is, the claim of Mr. Monroe, on account of loans negotiated during the late war, obtained by extraordinary exertions on his part, and by his personal responsibility. In reference to them, nothing is claimed by him but what, by the uniform practice of the Government, has been given to others; and, if obtained by extraordinary exertions, and this is conceded, why should he not be paid? Is he not as much entitled to compensation as your disbursing officers, who obtained nothing upon their mere responsibility, and nothing by any extra exertion? Compare the claim with the commissions received by Commodore Chauncey, the commander on your lakes, when the war raged among the ship carpenters at Sackett's Harbor and Kingston, for the supremacy of Lake Ontario, when little was achieved by either party on the water. Millions were disbursed,

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and passed through the hands of that officer, on all of which he had his commissions.

Take another case, when, if commissions were not allowed, they ought to have been. Such was the state of our finances, after the Constitution returned from the capture and destruction of the *Guerriere*, to the harbor of Boston, the navy agent, with all the available funds the Government could place in his hands, was unable to send her on another cruise. To do this, he pledged the whole of his private property, and became personally responsible for the necessary sum. What was the result? Another naval victory, and fresh laurels to the American arms. Part of these loans, effected by Mr. Monroe, were absolutely necessary to sustain your army, and embody the military forces at New Orleans, without which, victory would not have perched upon our standard; and he who is now at the head of the nation, would have been upon his farm in Tennessee.

Sir, the gentleman from North Carolina is mistaken in saying no individual could sustain the credit of this nation. It was done in the two cases referred to, at a time when Government paper was passing at a discount of thirty-three per cent. I speak from what I saw, and well recollect, at a time when some of our public agents, who had been fattening on the spoils of the Government, had so little confidence in its solvency, that when treasury notes passed through their hands, and it was necessary to endorse them, you would find upon them a special endorsement in these words: "Pay to A B, or order, without recourse, in any event, to me as endorser."

The services of Mr. Monroe, during a period of the late war, were greater and more arduous than any man's in this or any country. The world is unacquainted with them. He was the head and soul of the nation; oppressed and worn down by the weight of these services, he came near sinking into his grave—superintending and discharging the duties of three departments—State, Treasury, and War. To effect these outdoor loans, so they may be called, was not, could not, be required of him. Listen to the testimony of a living witness known to us all, Mr. Ringgold, and who, from his situation, could best speak of the services of James Monroe:

"On the 5th of September, 1814, Mr. Monroe appointed George Graham, Esq., Major Robert H. Macpherson, and myself, his confidential clerks, and made his own house our office. At this period, Baltimore, Richmond, Philadelphia, and New York, were menaced by the enemy with attacks; and large bodies of the militia and regular army were stationed at each of these cities. Lines of videttes, who brought us information every two hours, were stationed on the Baltimore and Richmond roads. A company of these videttes, under the command of Captain Taylor, of Virginia, were stationed in the western market-house, in front of Mr. Monroe's dwelling. He slept for three weeks on an uncomfortable couch, and made it my duty to receive the despatches which were received from the cities which were threatened with attacks. It was also made my duty to wake up Mr. Monroe whenever a vidette arrived at night with despatches; and I was often obliged to do so six times during the night. The despatches were regularly answered, and videttes sent off before he retired to bed.

From the day Mr. Monroe accepted the office of Secretary of War, to the end of the war, we had no office hours: we worked day and night, Sundays not excepted. Our usual time of shutting up the office, and leaving Mr. Monroe, was from 12 to 1 o'clock at night. In January, 1815, on an occasion of this sort, and after a day of incessant labor, Mr. Monroe, at 12 o'clock A. M., observed to us, that it was time to take some rest: in turning round to pull off his boots, he tumbled on the floor, exhausted with fatigue, and apparently lifeless: Mr. Graham being near, luckily caught him in his arms. He remained for

two weeks dangerously ill, and unable either to know or to attend to business. The department was conducted during this time by Major Macpherson, Mr. Graham, and myself, under the directions of the President, who was also confined by severe indisposition. The moment Mr. Monroe was restored to his senses, and had strength to dictate his instructions, we were summoned to his sick room, and were engaged daily in transcribing the communications which he had to make to all sections of the United States. For many days he was propped up in his bed by pillows, to write his despatches.

"TENCH RINGGOLD.

"WASHINGTON, February 2, 1829.

"Sworn to, before me, on this 2d day of February, A. D. 1820.

"JOSEPH STORY,

"One of the Justices of the Sup. Court U. S."

We are told, Mr. Chairman, that Mr. Monroe has sought all the offices he ever filled, and that he ought to be bound by his contract. Unfortunately for the gentleman from North Carolina, in this also he is mistaken, and contradicted by Mr. Monroe's communication to this House, and Mr. Jefferson's letter of 13th January, 1803, informing him of his appointment to his second mission to France. I will read but a few lines of that letter.

"I am sensible, after the measures you have taken for getting into a different line of business, that it will be a great sacrifice on your part, and presents, from the season, and other circumstances, serious difficulties. But some men are born for the public. Nature, by fitting them for the service of the human race, on a broad scale, has stamped them with the evidences of her destination, and their duty."

But Mr. Monroe has sounded all the depths and shoals of honor, (not the gentleman's language, but the idea conveyed by him,) and he must consequently be satisfied with the compensation received. A new mode to satisfy a claim for money. This argument I have, in the commencement of my remarks, replied to.

In conclusion, Mr. Chairman, as the gentleman from North Carolina [Mr. WILLIAMS] has referred us to the declaration of one Governor of Virginia, permit me to refer him to the declaration of another Governor of that State, [Mr. FLEMING] made in this House when the Vice President threw himself upon us, and requested an investigation of his conduct—"The respect we entertain for our public men, constitutes the reputation of our country; and, without respect from us, none can be claimed for them abroad at this time, said he, such is the situation of Europe, and the world, as to make it necessary for us to respect our national character, made up and formed by our distinguished men."

Sir, this is not the time for us to underrate the services of our distinguished men, or ascribe to them unworthy motives; and the gentleman from North Carolina may rest assured, that if we only pay them, I say nothing of rewarding them for their services, we shall not expect the consequences of certain acts in France of which he has given us such a vivid picture; I should sooner expect them from a different course of policy. The people of this country are too well acquainted with the services of James Monroe to suffer him to beg his daily bread from door to door—the consequences of our withholding the payment of a just and equitable claim.

What has rendered the last fifty years more illustrious than any period of the world, since the commencement of time? It is the age of Chatham, Burke, Fox, Wellington, and Napoleon.

It is the age of Washington, Jefferson, Madison, Monroe, Jackson, Adams, and other distinguished men in our country. What may not be said in favor of Virginia, with such sons as she has produced? You cannot fill by praise

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the measure of her glory. What would be said of her without these sons? She would not be conspicuous for any one thing; not for her commerce, her navigation, manufactures, agriculture, roads, or canals. Sir, death itself does not terminate the usefulness of such men as James Monroe; "from their tomb they will hold a torch to cheer and enlighten the world; their example will animate posterity; and should faction tear, or invasion approach our country, their spirits will descend from divinity, and inspire tranquillity and courage."

Let us beware how we tamper with their reputations, or sport with their rights.

"What constitutes a State?

"Not high raised battlements, or labored mound,

"Thick wall, or moated gate;

"Not cities, proud with spires and turrets crown'd—

"Nor bays, and broad armed ports,

"Where, laughing at the storm, rich navies ride—

"Not stars, and spangled courts,

"Where low brow'd baseness wafers perfume to pride.

"No men—high-minded men,

"With powers as far above dull brutes endued,

"In forest, brake, or den,

"As beasts excel cold rocks, or brambles rude—

"Men, who their duties know,

"But know their rights, and, knowing, dare maintain,

"Prevent the long aimed blow,

"And crush the tyrant, while they rend the chain—

"These constitute a State."

One of these is James Monroe, a citizen of Virginia.

The committee then rose, and reported progress.

Mr. MERCER gave notice that he should, on Monday, ask the House to resume the consideration of the subject. And then the House adjourned to Monday.

MONDAY, JANUARY 10.

Mr. HALL, from the Committee on Public Expenditures, to which had been referred a resolution, offered by Mr. CHILTON, some days since, relative to the pay of members of Congress, reported the following joint resolution; which was read, and ordered to be printed:

*Resolved, &c.* That the rules of each House shall be so amended as to make it the imperative duty of the Secretary of the Senate, and Sergeant-at-Arms of the House of Representatives, to ascertain at the end of every session of Congress, from each Senator, Member, or Delegate from a Territory, the number of days which he may have been absent from, and not in attendance on the business of the House; and, in settling the accounts of Senators, Members, and Delegates, there shall be deducted from the account or amount of pay for each session at the rate of eight dollars per day for every day any member of the House or delegate shall have been absent, except by order of the House to which he belongs, in consequence of sickness.

#### THE TARIFF.

Mr. TREZVANT submitted the following resolution:

*Resolved,* That the Committee of Ways and Means be instructed to report a bill to reduce the existing duties on imported goods, to take effect after the payment of the public debt, so as to raise a revenue adequate to the support of the Government under an economical administration of its affairs.

Mr. CONDUCT demanded the question of consideration; and

Mr. TREZVANT called for the yeas and nays on the question.

They were ordered by the House, and, being taken, stood as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Archer, Barnwell, Baylor, Bell, James Blair, John Blair, Bouldin, Brodhead, Cambreleng, Campbell, Carson, Chandler, Claiborne, Clay, Coke, Conner, Crocheron, Crockett, Warren R. Davis, Deberry, Desha, De Witt,

Draper, Drayton, Dudley, Foster, Gaither, Gordon, Green, Hall, Hammons, Harvey, Haynes, Hinds, Holland, Hubbard, Cave Johnson, Lamar, Lea, Lecompte, Lent, Lewis, Loyall, Lumpkin, Martin, McCoy, McIntire, Nuckolls, Patton, Pettis, Polk, Potter, Rencher, Roane, William B. Shepard, Augustine H. Shepperd, Speight, Standefer, Taliaferro, Wiley Thompson, Trezvant, Tucker, Verplanck, Wayne, Weeks, Campbell P. White, Wilde, Williams, Wingate.—73.

NAYS.—Messrs. Armstrong, Arnold, Bailey, Noyes Barber, Bates, Bockee, Boon, Borst, Brown, Burges, Butman, Cahoon, Chilton, Clark, Coleman, Condict, Cooper, Coulter, Crane, Crawford, Creighton, Crowninshield, Daniel, John Davis, Denny, Dickinson, Doddridge, Dorsey, Duncan, Dwight, Eager, Earll, Ellsworth, Joshua Evans, Edward Everett, Horace Everett, Findlay, Finch, Ford, Gilmore, Gorham, Grennell, Gurley, Halsey, Hawkins, Hemphill, Hodges, Hoffman, Howard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, William W. Irvin, Jennings, Johns, Richard M. Johnson, Kendall, Kennon, Kincaid, Perkins King, Leavitt, Leiper, Letcher, Lyon, Magee, Mallary, Marr, Martindale, Thomas Maxwell, Lewis Maxwell, McCreery, Mercer, Miller, Mitchell, Monell, Muhlenberg, Norton, Pearce, Pierson, Powers, Reed, Richardson, Rose, Russel, Sanford, Scott, Shields, Sill, Sterigere, William L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, John Thomson, Tracy, Vance, Varnum, Vinton, Washington, Whitlessey, Edward D. White, Wilson, Yancey, Young.—110.

So the House refused to consider the resolution.

#### ARMORY ON THE WESTERN WATERS.

On motion of Mr. DRAYTON, the House went into Committee of the Whole, Mr. POLK in the chair, and took up the following bill:

*"Be it enacted, &c.* That the President of the United States be, and he is hereby, authorized to select the site for a National Armory upon the Western waters, and, for that purpose, to cause such surveys to be made as he may deem necessary.

*"Sec. 2. And be it further enacted,* That, after such a selection shall have been made, the sum of        dollars be, and hereby is, appropriated for the expenses of the said survey, and for commencing the erection of the necessary buildings."

Mr. DRAYTON (chairman of the Committee on Military Affairs) said that the bill did not propose the immediate erection of an armory in the western section of the country, but authorized the President of the United States to select a site for such a work. Objections might be made to the proposed selection; yet, when gentlemen reflected that the armories now existing were all on the eastern side of the Alleghany mountains, he was of opinion their objections would cease. In all that vast tract of country west of the mountains, there was no manufactory for the public arms of the United States; and when the circumstances attending the last war were taken into consideration, gentlemen must see the necessity for passing the present bill. In case of another war, it would be found absolutely necessary to have an establishment of the kind proposed in that quarter of the Union, &c.

Mr. JOHNSON, of Kentucky, said he felt much obliged to the chairman of the Military Committee, and to the committee itself, for reporting the bill now under consideration. The first proposition for the establishment of an armory on the Western waters, was made several years ago. The Executive Government of the country had never been opposed to the measure, and its utility was agreed on all hands. But the works had never been commenced, because the members of the House could not agree upon a suitable site. Each gentleman had a preference for his own district; and a want of unanimity as to the best site had alone prevented the action of the



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*Armory on the Western Waters.*

[DEC. 10, 1831.]

House on the subject. He had been constant in his attempts to have the measure carried into execution, and he was free to confess his belief that his district was the most central, and in that district was to be found the best position for the contemplated work. He saw no prospect, however, of Congress ever determining upon a suitable site, and, therefore, he was willing to trust to the Executive the selection of a site—not doubting that, after a careful survey, the distinguished individual at the head of the Government would fix upon a suitable one. He was of opinion the House would never make the selection—the work was absolutely necessary—and he was willing to take the best course he could to ensure the erection of an armory in the Western country.

Mr. MCCOY thought that whatever propriety there was in the measure proposed, there was no necessity to make an appropriation for a survey. Some years since, an appropriation had been made for surveys to enable the Executive to fix upon a site. After much time spent in making surveys of the most prominent points of the Western country, Pittsburg had been fixed on as the most desirable site, and the operations at the proposed armory were to be effected by steam. After all the information that had been acquired by the commissioners who made the surveys referred to, (and they had examined every practicable site,) he was of opinion that another survey was not necessary, and hence there was no need of another appropriation for the purpose.

Mr. CHILTON said, that such was the regard which he cherished for the opinions and wishes of his honorable friend and colleague, [Mr. JOHNSON,] that it was always to him a source of unfeigned regret to feel himself bound to stand in opposition to either. But as he and that gentleman represented distinct districts, each of which had hitherto been urging their humble claims to a participation in the bounty of the Government—and that, too, in immediate reference to the object contemplated by the bill under consideration, he hoped he should be pardoned by the House for submitting a few remarks. That it is expedient, said Mr. C., to locate an armory west of the Alleghany mountains, will not, I presume, be denied by any member upon this floor; nor can any one more sincerely or ardently desire it than myself. I have always advocated the proposition, when brought before this House, as I conceived, in a proper shape. I should do the same now, if that were the case. But the abstract question of expediency is not the only question presented by this bill; it embraces other provisions, for which I cannot vote, until I lose sight of the interests of my immediate constituents; inasmuch as, in my judgment, they are pregnant with mischief and danger. Before I pass on, however, to speak more particularly of the defects of the bill, and the dangers to be apprehended from it in the event of its passage, I will make a single remark, to show the importance of establishing an armory on the Western waters. If, said Mr. C., the Western frontier were invaded, so remotely is our population situated from either the armory at Harper's ferry, or that at Springfield, that before our forces could be supplied with arms for its defence, the desolating hand of war would, in all human probability, cause our brightest prospects to wither in its grasp; while, on the other hand, speedily supplied with the implements of war from a manufactory within our own borders, we should be able to meet and repel the invader at his onset.

But I have said, and I repeat it, though I trust with respectful deference for the opinions of gentlemen who may differ with me in opinion, that the bill is defective—that the principles which it contains are dangerous—and that, unless it be amended, it should be rejected. It is impolitic, inasmuch as it appropriates the sum of \$75,000 from the treasury, for the purpose of enabling the Executive to make new surveys, or rather to have it done by a set of engineers who are to be pensioned gallopers over

the country; touching at every point, though minutely examining none—and, in the end, returning with less accurate knowledge than that with which they set out: for seldom, indeed, is either the President or Congress the wiser for all their geographical flummery. I think, sir, that enough has already been appropriated and expended in making surveys, to satisfy us that surveying is becoming a trade, better calculated to advance the individual interests of those engaged in it than the prosperity of the nation. The impolicy of multiplied appropriations for improvements in the West must obviously appear from another circumstance. It is, that we have it from the highest authority that the payment of the public debt will be greatly endangered, should money be disbursed for such improvements as lose their national character from the mere circumstance that they begin and end in a State.

But, said Mr. C., I will now advert to the dangers to be apprehended from the passage of this bill. What does it propose, but to increase the power and patronage of the Executive, in a degree, and to an extent, which must surely be alarming to all, when duly considered? That power is too great, and that patronage too extensive already. At the nod of the Executive, is it not true that the exile from office and station takes up the line of march? Not, truly, with his musket on his shoulder, to fight the battles of his country; but with his load of poverty, and perhaps unmerited disgrace, he returns to his family, already worn down with indigence and sorrow.

Is it not true that, at his bidding, the sail unfurls to the ocean's breeze, and agents from abroad, like humble menials, are ordered home; while others, from better fortune, and as greater favorites, are richly provided for, and sent abroad? Yes, sir, and what now? The President must have the sum of \$75,000 placed in his hands, with authority to survey the vast valley of the Mississippi—where he pleases, when he pleases, and as he pleases; with engineers enough spread over the country, even to gallop a man into the Presidency, if such aid were necessary: and, after all, to cap the climax, he is to select the site upon his own responsibility, and all alone. This, too, with the questions of low funds on the one hand, and nationality on the other, staring him in the face. Surely the reflecting mind must perceive, at a glance, as well the delicate situation in which the President would be placed, as the mischiefs which might follow so rapid an increase of his authority. We should beware of power, in the hands of the present Executive, as well as in the hands of all other Executives. They, like ourselves, are but men, and the wavering balance is as apt to shake in their hands as in ours. I am willing, sir, that each section of the Western country present to Congress its own peculiar claims to this location, and then to trust the decision to the wisdom of this body; for I am by no means prepared to admit that the Executive, notwithstanding the exalted station which he occupies, can outweigh the whole legislative councils of the country, either in intelligence, integrity, or disinterestedness; though I do not deny to him the possession of each. In conclusion, however, permit me, sir, to say, that I have another private reason, which will operate upon me with considerable power, when I come to give my vote upon this bill. Let it be remembered that Kentucky, the State from which I come, and which I have the honor in part to represent, feels a deep interest in this question. She has strong claims, and such as I hope soon to see adjusted; but whenever I am told that the present Executive is to sit as sole arbiter in the adjustment, I am involuntarily reminded that she is now groaning under the weight of a never to be forgotten veto.

At the request of Mr. DRAYTON, certain documents having relation to the subject, were here read.

Mr. D. then moved to fill the blank in the bill with seventy-five thousand dollars; which was agreed to.

DEC. 23, 1830.]

*Armory on the Western Waters.*

[H. OF R.]

The committee then rose, and reported the bill as amended; and the amendment was agreed to.

Mr. CARSON said he felt a disposition to oblige his friends; and of all the committees of the House, there was none on whose report he would sooner rely without examination, if he could do so for any committee, than that of which the gentleman from South Carolina was chairman. But he could see no necessity for the erection of the armory proposed; arms could be purchased much cheaper by contract than they could be made at the armories, and enough could be manufactured at Pittsburg to supply the whole Western world. At six dollars each, the sum of \$500,000 would purchase 80,000 stand of arms; and as steamboats were always running from that point to the various sections of that country, and arms could be at all times conveyed where wanted by these vessels, he should be willing to sell the armories now in existence, and give the citizens an opportunity to manufacture arms for the nation; and he had no fears that an ample supply could not be had. The expenses of these armories were very great, consisting of the pay of artificers, the purchase of materials, &c., while articles of as good manufacture, and at a much cheaper rate, could be had of individuals. He might be incorrect in his views; but, so forcibly did the subject strike him at this time, that he should be compelled to vote against the bill.

Mr. DRAYTON spoke at some length in reply to Mr. CARSON. He thought that no public work erected was of more importance than the national armories. The theory of the gentleman who last spoke, was plausible; but, if the House should adopt his views of the matter, the practice would be found to be injurious. The Government had two armories, which manufactured a certain number of arms every year. If individuals should establish themselves, and manufacture as good articles, and sell them at a lower price, he doubted not they would find for them a ready sale. But it was necessary that the United States should possess armories, that the nation might be supplied with arms of a good quality and uniformity of construction. Mr. D. referred to the events and the disasters of the late war. The militia could not procure arms in sufficient quantity; some were armed—some were not—some had muskets, but no bayonets—and others were, more or less, in want of complete arms. He spoke from his own observation, when he said that in many cases their arms were defective, and unfit for service—on several occasions they had burst in the hands of the soldiers while they were in the act of discharging them. Those arms turned out of the national armories were known to be good, uniform, &c.

Mr. JOHNSON, of Kentucky, also replied to Mr. CARSON. He spoke of the great necessity there was for a manufactory of arms in the Western country, and said it was useless to dwell upon the importance of having at all times ready a plentiful supply of arms. He stated a number of accidents that had occurred during the late war, from the use of arms of an inferior quality, and remarked on the great advantages that resulted from the establishment of armories of a national character. He spoke of the plan at present pursued at those institutions. The arms were all of a uniform make; so much so, that they might all be taken to pieces, and the parts thrown promiscuously together to the filling of a large room, and yet there would not be the least difficulty in putting them together. There were now two armories—suppose a third should go into operation—three would not be too many for a state of peace; but, in case of war, how great the necessity for the erection of that now contemplated—it would be found that the three would not supply arms fast enough for the wants of the country.

Mr. IRVIN, of Ohio, commented upon what had fallen from the gentleman from Kentucky, [Mr. CHILTON,] and said he had not anticipated opposition to the proposed

measure from that quarter. He had declared his unwillingness to entrust the President with the proposed selection. From what had heretofore taken place, it was evident this House would never come to an understanding on the subject. The work was admitted to be necessary, and he saw no prospect of its ever being commenced unless the power proposed by the present bill was given to the President. He had every confidence in the officer referred to, and did not doubt that he would select such a site as would be for the public good. As to what had fallen from the gentleman from North Carolina, [Mr. CARSON,] relative to the greater cheapness of arms furnished by contract, he pretended to no knowledge on that point. But he would remark, that there were now two armories belonging to the nation; and he presumed that, if arms could have been had to greater advantage by private contract, they would have been abolished long since. The public and private manufactories, he was convinced, could not, altogether, furnish enough to supply the wants of the country in time of war; and he was confident, if the gentleman had been in his section of country during the last war, he would have seen the necessity there was for both soldiers and arms.

Mr. CHILTON again rose, and observed, that but for the remarks of the gentleman from Ohio, [Mr. IRVIN,] he should have contented himself to have voted without adding a word to what he had said before. But, said Mr. C., my honorable friend is greatly in error, in supposing the remarks which he has attributed to me, to have fallen from me. If that gentleman misunderstands me, the House, I hope, does not; and my constituents and the country, I am determined shall not. Did I say, sir, that I was opposed to the location of an armory in the West? No, sir; I said the very reverse—I said I was decidedly friendly to the object, but had no confidence in the means by which it was proposed to be obtained; and that the gentleman should so widely have mistaken me, is a matter of surprise. The only difference between us consists in this, that he is willing to appropriate, while I am not—he is willing to submit the whole destinies of the West, so far as relates to this matter at least, to the final arbitrament of the President, while I am not. He seems to think the Executive the safest repository of this power, while I freely admit I do not—I cannot. The gentleman has almost exhausted our language in seeking for epithets sufficiently strong to express his confidence in the Executive, for which I certainly would not censure him; but he will not be surprised when I assure him that I had hitherto supposed his confidence to be just about as strong as my own. Whether, however, his confidence be great or small, of one thing I am sure: it is, that the friends of the bill should expect but little aid from a vetoed State; for as well might her hopes, in relation to this matter, wither and fall victims to the veto policy, as in a late and very memorable instance, to which I have alluded. I have only to ask of the House, that when the question be taken, it be taken by yeas and nays.

The yeas and nays were ordered by the House; but, before the question was put, a motion for adjournment was made; and

The House adjourned.

TUESDAY, JANUARY 11.

On motion of Mr. DRAYTON, it was

*Resolved*, That the Secretary of War be directed to communicate to this House whether the existing laws do not provide for a greater number of cadets at the United States' Military Academy, than is consistent with the objects for which it was established; and, if so, that he do report a plan and organization for that academy, corresponding with the alterations and reductions which may be deemed expedient.

H. OF R.]

Duty on Sugar.

[JAN. 11, 1831.]

Mr. WICKLIFFE, from the Committee on the Public Lands, reported a bill "to authorize the President of the United States to change the location of the land offices in the United States." The bill was read twice, and Mr. W. explained the object of the committee in reporting it; he hoped it would be ordered to be engrossed to-day for a third reading to-morrow.

Mr. SEVIER objected to thus pressing the bill through the House. If the gentleman persevered in the course he had proposed, he [Mr. S.] should be obliged to vote against it.

Mr. WICKLIFFE said he had no disposition to press the subject on the House at this time, and he would move its postponement to this day week.

The motion prevailed.

#### DUTY ON SUGAR.

Mr. HAYNES, of Georgia, submitted the following resolution; and remarked, on offering it, that, as the subject of it was interesting to every part of the community, he hoped it would not be denied the courtesy of a consideration.

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of reducing the duty on brown sugar imported into the United States from foreign countries.

Mr. RAMSEY inquired if a similar resolution had not already been offered at the present session.

The SPEAKER replied, that there had been so many resolutions offered, he could not take it upon himself to answer the question.

Mr. CONDUCT demanded the question of consideration.

Mr. HAYNES asked if he could have an opportunity to modify the resolution, before the question of consideration was put.

The SPEAKER answered in the affirmative.

Mr. HAYNES then modified his motion, to read as follows:

Whereas, without a considerable diminution of revenue, the public debt will, in a very few years, be redeemed and discharged: And whereas the end of republican government is the prosperity and happiness of the people: And whereas this end cannot be more certainly promoted than by a system of taxation which shall leave the largest portion of the products of labor in the pockets of the people: And whereas the necessities of life should, as far as practicable, be exempted from taxation: And whereas brown sugar has become an article of great and necessary consumption among all classes: And whereas the present duty on that article, imported from foreign countries, bears an unjust and extravagant proportion to the original cost in foreign markets: And whereas there is good reason to believe that the tax collected by the Government, upon its importation, amounting to one million four hundred and thirty-four thousand nine hundred and sixty-one dollars and eleven cents, is less than half the sum taken from the pockets of the people under the operation of the existing duty, the quantity manufactured in the United States within the year 1830 having been estimated at one hundred thousand hogsheads, equal to one hundred millions of pounds, at three cents per pound, protecting duty equal to three millions of dollars—

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of reducing the duty on brown sugar imported into the United States from foreign countries.

On this resolution Mr. CONDUCT demanded the question of consideration.

Mr. MARTIN said, if the gentleman from New Jersey, and others who sustained the tariff policy, were determined to prevent the consideration of this subject, he would suggest that their object could be effected by moving to lay the resolution on the table, and printing it. That motion would prevent discussion, while, at the same

time, the House and the world would see the nature and character of the resolution, in favor of which they refused to hear a single word.

Mr. DENNY renewed the demand for the question of consideration.

Mr. CAMBRELENG called for the yeas and nays on the question, and they were ordered by the House. Being taken, they stood as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Archer, Armstrong, John S. Barbour, Barnwell, Barringer, Baylor, Bell, James Blair, John Blair, Boon, Borst, Brodhead, Brown, Cambreleng, Campbell, Chandler, Claiborne, Clay, Coke, Conner, Craig, Crockett, Crocheron, Davenport, W. R. Davis, Deberry, Desha, DeWitt, Draper, Drayton, Dudley, Earll, Foster, Gaither, Gordon, Hall, Halsey, Hammons, Harvey, Haynes, Hinds, Holland, Hoffman, Hubbard, Jarvis, Jennings, Cave Johnson, Perkins King, Lamar, Lea, Lecompte, Lent, Lewis, Loyall, Lumpkin, Martin, Thomas Maxwell, McCoy, McDuffie, McIntire, Mercer, Mitchell, Monell, Nuckolls, Patton, Polk, Potter, Rencher, Roane, Wm. B. Shepard, Aug. H. Shepperd, Speight, Sprigg, Standefer, Wiley Thompson, Trezvant, Tucker, Verplanck, Wayne, Weeks, C. P. White, Wilde, Williams, Wilson.—89.

NAYS.—Messrs. Arnold, Bailey, Noyes Barber, Bates, Bockee, Burges, Butman, Cahoon, Chilton, Clark, Condict, Cooper, Cowles, Crane, Crawford, Creighton, Daniel, Denny, Duncan, Eager, Ellsworth, George Evans, Edward Everett, Findlay, Finch, Gilmore, Gorham, Green, Grennell, Gurley, Hawkins, Hemphill, Hodges, Howard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, W. W. Irvin, Johns, Richard M. Johnson, Kendall, Kennon, Kincaid, Adam King, Leavitt, Leiper, Letcher, Lyon, Magee, Mallary, Marr, Martindale, Lewis Maxwell, McCreery, Muhlenberg, Overton, Pearce, Pierson, Ramsey, Reed, Richardson, Rose, Russel, Sanford, Scott, Sill, Smith, Stanbery, Steriger, Strong, Sutherland, Swann, Swift, Taylor, Test, John Thomson, Tracy, Vinton, Whittlesey, Edward D. White, Yancey, Young.—85.

So the House determined to consider the resolution.

Mr. HAYNES then rose, and said he was glad, notwithstanding the rule which, however wisely adopted, was in its operation so well calculated to abridge the liberty of speech, that the House had extended to the resolution just offered the courtesy of consideration. He was willing to have rested the subject solely upon the resolution first offered, and, but for the apprehension of a refusal to consider it, should not have modified it by the addition of the preamble. But, as the House had, somewhat unexpectedly, afforded him the opportunity of presenting a few observations to its attention, he would not permit that opportunity to pass away wholly unimproved by him. When he had the honor to bring this subject to the consideration of the House at an early day of the present session, he had extended his proposition to the whole class of sugars, because, whether they had been imposed for the purpose of revenue or protection, he thought the time had arrived when the duties ought to be entirely abolished. But, in introducing the subject thus broadly, he did not consider that the Committee of Ways and Means would be necessarily restricted in their inquiry to the mere question of repeal; but if, in their wisdom, it should be determined that a partial reduction of the duties was all the exigencies of the country would permit, they would be authorized to go so far, and no farther. For his part, he had formerly believed, he now believed, and ever should believe, that the true end of Government was the happiness and prosperity of the people; and for the furtherance of this end, it was essential that the necessities of life should be subjected to the smallest amount of taxation which the public exigencies would permit.

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*Duty on Sugar.*

[H. OF R.]

Whatever might have been the original use of the article of sugar—if it was first a medicine, and then a luxury—it had become an article of essential necessity, as was proven by the estimated consumption of the present year, at one hundred and fifty millions of pounds. Nor in this character is its use confined to any particular or favored class of the community, but runs through every degree and condition in life. Nor is it any answer to this assertion to say, that some twenty-five or thirty thousand dollars of revenue has been derived from their consumption within the years 1815 to 1829, inclusive. And here he would remark, that, notwithstanding the laws of the country are accessible to all, it is important that the public mind should be enlightened upon the existing tax on sugar. But, before proceeding further with the subject, he would beg leave to remark, that how much so ever gentlemen might sneer at the proposition, that, under our system of revenue, the taxes are paid by the producers, no proposition was, to his mind, more clear and undeniable, as consumption must necessarily be regulated by production. By an examination of the tariff of 1816, and reference to the annual reports from the Treasury Department upon the commerce and navigation of the United States, since that period, it would be found that the duties imposed upon the import of lump and refined sugars and sugar candy had amounted to prohibition; thus effectually depriving the consumer of any choice whatsoever between the foreign and domestic articles. Nor is this all; for inasmuch as the consumption of brown sugar among the poorer classes is much greater in proportion to their means than, among the wealthy, the tax falls most heavily on those who are least able to bear it. And here he would take the occasion to remark, that, although he still entertained the opinion, under the influence of which his resolution of the 13th of December was offered, the advice of friends, and the hope of a more favorable consideration, had induced him to narrow that resolution to its present shape. But who seeks for the repeal or reduction of taxes? Not the receiver, but the payer of taxes.

He regretted that he had no specific information as to the price of sugar in foreign countries when the tariff of 1794 was imposed. But, if he had been correctly informed, the foreign cost of brown sugar imported into this country at that period was not less than eight to ten cents per pound. If this be true, it is the obvious inference that Government did not then intend, by a tariff of two cents per pound, to impose a duty which should operate as more than twenty or twenty-five per cent. *ad valorem* on the original cost of the article. But, as the foreign cost has considerably declined since that period, thereby increasing the relation of the duty to such cost, if the duty of 1794 had not been increased by the act of 1816, it would now operate at the rate of forty to fifty or sixty per cent. *ad valorem* on the original foreign cost. But, by raising the duty, in 1816, to three cents per pound on brown sugar, its *ad valorem* operation is still greater, being not less than one hundred per cent. In the discussion of this subject, we might be told that the average price of sugar had declined in consequence of its manufacture in this country, and, therefore, sound policy requires the continuance of the present duty. If gentlemen would take the trouble to inform themselves on this subject, he was satisfied they would find that such an assertion was wholly without foundation. For his part, he had been at some pains to obtain information, the result of which was, that the price of sugar imported into England, from the year 1814 to 1823, inclusive, had undergone an astonishing diminution, no part of which could be ascribed to its manufacture in this country. By a reference to a statistical work on the population and resources of Great Britain, which he had examined, it would be found that the average price of brown sugar

imported into England, in the former year, was seventy-three shillings and four pence one farthing the hundred weight, and, in the latter year, but thirty-one shillings and one farthing. Surely this could not be ascribed to its manufacture here. Nor does it appear that the price of either year depended upon a stinted supply in the one, or an excessive importation in the other, as a considerable surplus was exported in each.

And here he would repeat, substantially, what was said during the discussion of the East India sugar duty in the House of Commons, in 1823, by the late Mr. Huskisson, one of the most able and practical statesmen England has ever produced, and whose death may well be lamented in that country as a great public calamity, that, whenever there is an excess of import over consumption, the price of the article must be regulated by the markets of the world. He said, that a proposition of such obvious truth did not require the aid of illustration or argument from him. Not only had the British market exercised an influence on the price of the article, but the French market also. And here he was not prepared to speak so definitely as to the price in France, as he had done of England. Nor was it important for him to do so, as the influence exercised by the French market on the price of sugar originated principally from the partial exclusion of the article. It must be well known to every member of this House, that, during the wars of the French revolution, the sugar colonies of France were cut off from the mother country, and that although the commerce between those colonies and the mother country entered for several years very largely into the American carrying trade, yet the interpolations of national law, brought to operate upon neutrals by the principal belligerents, at length destroyed that trade entirely. Accustomed to the use of sugar, the French people were not willing to forego this necessary article of consumption, and their ingenuity soon furnished a substitute in the sugar extracted from the beet. The culture of the beet, and the extraction of sugar from it, had grown to such an extent before the general pacification of Europe in 1815, that the Government imposed a high duty on foreign sugar for the protection of the domestic. This system had not been abandoned since the recovery of the French sugar colonies in the West Indies. Thus it was probable that a considerable portion of the sugar manufactured in those colonies was necessarily thrown upon the great market of the world. He said, if the facts and inferences upon which he had thrown himself, were true, and he did not think they could be successfully controverted, the price of sugar arising from its manufacture in this country, so far from regulating, had been regulated by the markets of the world. But, before dismissing this branch of the subject, he would observe, that the price of sugar in the English market could not have been influenced by any variation of the duty, as that fluctuated between twenty-seven and thirty shillings the hundred weight, making a difference of but three shillings the hundred weight between any two years of the period to which he had referred. Nor can it be doubted that the high duty in Great Britain considerably lessens the amount of sugar consumed there, and particularly in Scotland and Ireland, thus leaving a much larger quantity for the supply of other markets, and consequently lowering its price in those markets. But we might derive instruction on this subject, by a reference to the treasury reports upon the commerce and navigation of this country from 1821 to 1829, inclusive. During that whole period, it would be found that the foreign cost of brown sugar imported into the United States had not varied more than about half a cent per pound, and that not by a uniformly declining price. Nor will it fail to be observed, upon an examination of the reports referred to, that the importation of brown sugar paying duty, was greater in 1829 than in 1821, and not

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much less than the average annual importation of the whole period. Nor might it be improper for him here to remark, that there was a considerable annual exportation with the benefit of drawback from 1821 to 1829, inclusive. If it could be necessary for him to go further to account for the gradual decline in the price of sugar throughout the commercial world within the last fifteen years, it would be sufficient to advert to the large amount of labor released from the purposes of war about the commencement of that period, and the consequent diminution of its value in all the productions of human industry. But, as the kindness of a friend had furnished him with the means of doing so since the commencement of his remarks, he would state some additional facts bearing upon the probable causes of the diminished price of sugar within the last few years. He had brought down the price of sugar imported into Great Britain to the year 1823, and was now prepared to trace it to 1828, at the close of which it was twenty-seven shillings the hundred weight. Nor was this occasioned by diminished duty—the duty having been permanently fixed at twenty-seven shillings the hundred weight, or one hundred and twelve pounds. He was also prepared to state specifically the effect which the protection afforded in France to sugar extracted from the beet had produced on the consumption of West India sugar in that country in the year 1827—the consumption amounting, in a population exceeding thirty millions, to no more than one hundred and thirty-two millions of pounds. But, when we consider that the whole consumption of sugar in France, and the British empire in Europe, equals six hundred millions of pounds annually, (the consumption of England alone, in 1823, having been estimated by Mr. Huskisson at three hundred and sixty millions,) and reflect on the immense additional quantity necessary to supply all the countries of the world which consume the article, it must be manifest, that its manufacture in the United States exercises a very insensible, if any, influence on its price either at home or abroad. But our own commercial history furnishes an instance of the decline in the price of brown sugar within a few years, as remarkable as any that has been mentioned, and that, too, without any possible reference to its manufacture in this country. If gentlemen will examine the prices current of Philadelphia for the years 1804 to 1807, inclusive, they will find that, from June of the former to the same month of the latter year, the price declined from twelve and one-half to nine cents per pound, and that, too, at a period when our foreign relations with the most powerful maritime nation in the world threatened serious interruption to our foreign trade, and consequently a diminished import of sugar. He said, that a strong additional argument against the presumption that the price of brown sugar in other countries had been influenced by the manufacture of that article in this, was, that the price of white clayed sugar, an article not of American manufacture, had experienced a corresponding decline. He had ascertained by an examination of the Philadelphia prices current, from 1803 to 1807, inclusive, that, in the former year, this article was quoted in that market at seventeen and one-half cents per pound, and in the latter at but thirteen and one-half, a difference of four cents per pound in the short period of four years. And although he had no means of ascertaining the cost in the foreign market, it could but be presumed to have been considerably higher than the average of the six years ending with 1829, within which, notwithstanding there was some variation in the prices of different years, he did not believe the average would be found to exceed seven and one-half cents per pound. As the operation of a part of the system of duties on sugars, he would state what he had no doubt was true, that, in some instances, much more drawback had been allowed on the exportation of refined sugar, than the duty previously paid on

the raw sugar from which it was made. In fact, that the article alluded to as thus receiving drawback, was not worth the average price of brown sugar, and that little, if any, loss of quantity had probably been sustained by converting the one into the other. This, he said, he understood, had undergone judicial investigation, and the court had been compelled to decide that the article came within the technical meaning of refined sugar, under the law. But, although this was an abuse, he would not leave the subject without a passing notice of the protection afforded to *bona fide* refiners of sugar in this country. By the tariff of 1816, the duty on refined sugar imported into this country is twelve cents per pound. He believed that one hundred and seventy pounds of raw sugar were generally estimated as equal to, or sufficient for, the manufacture of one hundred pounds of refined.

He did not know precisely how it was estimated in this country. He knew that this was considered to be the standard in Great Britain, and, as he understood five cents per pound to be the drawback allowed on the exportation of American refined sugar, presumed the English and American standard did not materially vary. What, then, said he, is the consequence? That the refiner of sugar in this country receives a drawback to the whole amount of duty on what he exports, and a protecting duty of seven cents the pound on all that is consumed in the country. He did not pretend to know what is the cost of refining, but, to his mind, the tax appeared to be enormously disproportioned to the value of the article upon which it is laid. But, in discussing this subject, it is necessary that we consider its influence upon some of the various and important interests of the country. We have been told by the Secretary of the Treasury, in his annual report upon the finances, that the navigation of the country is in a most languishing condition. This must be manifest, if we look at the diminished value of our exports and imports within the last five years. If he was not mistaken, though he had not very recently examined the subject, he believed that both exports and imports had declined in annual value within that period about thirty millions of dollars each. He said, although, for his part, he had no doubt the evil just adverted to had a much deeper root, he was prepared to believe, and did believe, that a due proportion of the depression under which American navigation now languishes, may be justly attributed to the restriction imposed by the existing duty on sugar, upon our intercourse with sugar-making countries; and for evidence of the partial effects of these restrictions on American trade and navigation, he would refer gentlemen to the correspondence between General Von Scholten, the special minister from Denmark, and the Secretary of State, which had lately been communicated by the President to Congress, and printed by order of the House. He had not troubled the House with the inquiry whether the duty imposed by the act of 1816 was intended for revenue or protection, or partly for both. This was unnecessary, as he had expressed the opinion at the outset, that whether designed for the one or the other, repeal or reduction was now necessary. In investigating the effect of this duty on American navigation, he had looked over a part of the annual report on commerce and navigation for the year 1829, for the purpose of ascertaining the true state of the matter. Upon a careful examination, he had found, that, although our exports for that year to the Swedish, Danish, Dutch, British, and French West Indies, British American colonies, Cuba, other Spanish colonies, Brazil, and the West Indies generally, amounted to fifteen million three hundred and two thousand and eighteen dollars, yet the imports amounted to no more than twelve million six hundred and seventy-four thousand three hundred and forty-two dollars, showing an excess of exports over imports of two million six hundred and twenty-seven thousand eight



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hundred and seventy-six dollars. As the value of the exports was estimated in the home market, and of imports in the foreign, it is difficult to reconcile the excess of the former over the latter, upon any principle consistent with profitable trade. But the subject seems to present further illustration when we compare the amount of tonnage engaged in this business, which entered and departed within the same period. This comparison shows an excess of seventy thousand one hundred and thirty tons of shipping departed, over that which entered during that year. He had not attempted an accurate estimate of the foreign tonnage engaged in this trade within the period under consideration, but did not believe it would materially vary the result. But, if we include the trade with Hayti, which shows a considerable balance of imports over exports, it will reduce the general balance against us to but little less than two millions of dollars. He said, further comment on this subject could not be necessary. And here he said he could but regret that the information called for by an honorable member from North Carolina, [Mr. CONNER,] at the last session of Congress, and that which had been called for by a resolution which was offered by himself since the commencement of the present, had not yet been received from the Treasury Department. And although he came not here as the eulogist of any man, it would become him to say, that if the information sought for by the resolutions to which he had alluded, had been within the power of the able and diligent head of that department, he had no doubt it would, before now, have been communicated to this House. He regretted the absence of this information, particularly as we are without any specific data upon which to estimate the amount of capital employed in the culture of the cane and the manufacture of sugar in this country, and the annual profit which it affords. It has been stated that the quantity manufactured in this country in the year 1830 amounts to one hundred thousand hogsheads, or one hundred millions of pounds. Assuming the amount imported in 1829 as the standard of importation of 1830, and it may be taken for granted that the consumption of the present year cannot fall short of one hundred and fifty millions of pounds. If this estimate be correct, it is not difficult to arrive at the amount of contribution levied upon the whole mass of consumers by the operation of the present unequal and most burdensome tax on this article. In his view of the subject, there was no doubt the consumers were taxed at the rate of three cents per pound upon the whole consumption of one hundred and fifty millions, making an aggregate of four millions and a half of dollars for the present year; thus showing that this tax, which carries into the treasury but one million and a half of dollars, puts the sum of three millions into the pockets of the American manufacturers of brown sugar. If he should be asked how he arrived at this conclusion, he would answer, that he had been informed, and did not believe the fact could be controverted, that the difference between the short price and the long price of sugar in our greatest commercial city was precisely the amount of the duty of three cents per pound.

As his remarks might, perchance, attract the notice of other eyes than those of commercial men, he would state, that the short price was the price without the duty, and the long price the price including the duty. So that, as no foreign sugar regularly imported can be consumed in the country without paying the long price, the duty is necessarily paid on all so consumed. It might be objected, that domestic sugar is lower in the market of New Orleans than the average price of foreign sugar in the Atlantic cities on which duty has been paid; but he apprehended no essential difference will be found between the prices of the foreign and domestic articles in the Atlantic cities above referred to. And he has been informed, and believes, that foreign sugar at the short

price, or duty off, can, at the present moment, be bought at a considerably lower price in our Northern markets, than the domestic in the market of New Orleans. If this be the fact, would not the article, if the duty should be materially reduced, come as cheaply from the West Indies, or, indeed, more so, than from New Orleans? But, in the remarks which he had submitted upon the subject as connected with the navigation of the country, he had not adverted to the recent recovery of the direct trade with the British West India islands. He could not speak advisedly on the subject, but had no doubt a reduction of the duty on brown sugar would have a most salutary influence on the advantages to be derived from this acquisition.

But, in advocating the reduction of this duty, it was not to be considered that he looked to that reduction as likely to destroy, or essentially diminish, the manufacture of brown sugar in this country. The enormous profits which he believed were now reaped by persons engaged in this manufacture, might well bear some reduction—and, when we consider the languishing condition of other agricultural pursuits, ought to be made to bear it. What is the general condition of agriculture throughout the country, it is not necessary to state, nor the large portion of our people who derive their subsistence from its hard earnings. He must again express his regret for the want of more specific information on the subject. In the absence of such information, he must rely upon an estimate of the sum necessary to purchase and supply with the necessary stock, machinery, and subsistence, for one year, a plantation for sixty hands, and the probable product of their labor, as a standard of the profits of this pursuit. The estimate he would first offer was one said to have been made by an individual who has had some practical acquaintance with the business, as conducted in one of the sugar colonies of France. He said he did not intend to rely solely on this estimate; but, after presenting it, he would offer others to the notice of the House, which, he was persuaded, would be found not to present a picture too favorable to the manufacturer of brown sugar in this country. The estimate to which he had referred, puts down the sixty hands at an average of three hundred dollars, making an aggregate of eighteen thousand dollars. Five hundred acres of land at ten dollars per acre, five thousand dollars; dwelling, negro, and other houses, works, tools, steam engine, &c. at twenty-three thousand dollars; one year's subsistence, including incidental expenses, at four thousand dollars—making a total of fifty thousand dollars. Taking the quantity of land cultivated in cane at three hundred acres, and the average product of sugar at twelve hundred and fifty pounds per acre, will be three hundred and seventy-five thousand pounds. The quantity of molasses at eighty-four gallons per acre, will be three thousand seven hundred and fifty gallons of molasses. Estimating the sugar at five cents the pound, and the molasses at fifteen cents the gallon, the gross revenue will be twenty-two thousand five hundred dollars, from which deduct three thousand dollars for yearly expenses, and it will leave, of nett income, nineteen thousand five hundred dollars, or about thirty-nine per cent. upon the whole investment. Mr. H. said, although the estimated average value of slaves in other States might seem to justify the average assumed for the gang of sixty, yet, as the estimate might, by some, be considered too low for Louisiana, he would add ten thousand dollars to the estimated cost of the establishment; and then, assuming the same annual product from it, if he had made no mistake in the calculation, the nett profit would exceed thirty-two per cent. But suppose we set down the capital invested at one hundred thousand dollars, instead of fifty, and calculate upon the same product, the profit will be near twenty per cent.; and if we add half a cent per pound to the estimated value of the sugar,

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(and he had been informed that the last advices from New Orleans placed it at that sum,) the profit, taking the whole cost of the establishment at one hundred thousand dollars, would exceed twenty per centum per annum. But, suppose the medium sum of seventy-five thousand dollars be taken as the cost of the plantation, hands, &c., and estimate the product at four thousand pounds to the hand, and he would venture the decided opinion that the hands actually employed do not fall below that average, estimating the sum of two hundred and forty thousand pounds of sugar at five and a half cents per pound, twenty thousand one hundred and sixty gallons of molasses at fifteen cents per gallon, and the result is the gross sum of sixteen thousand two hundred and twenty-four dollars, which, allowing four thousand two hundred and twenty-four dollars for annual expenses, leaves twelve thousand dollars clear profit, or sixteen per cent. per annum.

Where is the agriculturist, engaged in any other branch of this widely diversified pursuit, who realizes one-third of this profit from the capital and labor which he employs? Surely not the grain grower, of whose limited market and scanty profits we have heard so much; and as surely not the tobacco or cotton grower, who, with so much difficulty, brings the two sides of the ledger to meet. He said he had no practical information on this subject, but, from what he had heard upon authority he did not question, two thousand pounds of sugar had been manufactured from an acre of cane, in one of the southern counties of Georgia, and he had understood that a like quantity had been manufactured by some individual in Florida, since the commencement of the present winter. But why go further into detail on this subject? If his calculations were to be relied on, and he had little doubt that some one of them might be, the result is, that the manufacture of brown sugar can be profitably prosecuted in this country without the aid of a protecting duty.

But let us view the subject somewhat more in the aggregate. If one thousand pounds of sugar to the acre be a fair average, and, if it varies from the truth, he believed it was below it; and if a hand can manage five acres, and he believed, from his general knowledge of Southern agriculture in relation to articles requiring similar cultivation to the sugar cane, he can do so, we arrive at the conclusion, that the land cultivated in cane does not exceed, and probably falls below, one hundred thousand acres, and the hands cultivating it cannot exceed twenty-five, and probably do not number more than twenty thousand. Taking then the whole product of eighteen hundred and thirty, at one hundred millions of pounds of sugar, and the molasses he should not estimate, because he had understood it would cover the annual expenses of the plantation on which it was made, at least, the expenses of cultivation—and the value of the sugar amounts to five millions and a half of dollars at New Orleans, and probably two millions, or two and a half more before it gets into the general consumption of the country. If we divide the five millions and a half between twenty thousand hands, the distributive amount to each is two hundred and seventy-five dollars. If a like distribution be made between twenty-five thousand, it is two hundred and twenty dollars each. Then is it just, is it reasonable, that the whole agriculture of the country should be burdened by a tax of four millions and a half of dollars—for if the million and a half now received as revenue can be dispensed with, and by its repeal the country would be relieved from an additional levy of three millions now paid to the sugar manufacturers, the whole tax may now be considered as operating for their benefit—that the hands employed in manufacturing brown sugar in this country may earn for their employers the annual return of from two hundred and twenty to two hundred and seventy-five

dollars for the labor of each, exclusive of the value of molasses. Shall the hundreds of thousands of hands employed throughout our wide spread country in raising grain, tobacco, cotton, and other agricultural products, be taxed four millions and a half of dollars, to enable twenty or twenty-five thousand to cultivate from eighty to one hundred thousand acres of land, at a profit of from sixteen to near forty per centum per annum? Surely justice forbids it. But some advocate for continuing the duty might say, that the sugar culture cannot be profitably carried on without it. If he believed this to be the case, which he most certainly did not, he, for one, should say it was high time the culture was abandoned.

Mr. H. said, that, among the motives which had urged him to bring this subject to the consideration of the House, there was one, which, although it had been omitted at the outset of his observations, it might not be immaterial to mention. He came from a State which might be considered by some as having an interest in the continuance of this duty—a State which, as she had gone into the revolutionary contest in defence of principle, was ready to maintain it now. Yes, sir, it was for principle that Georgia made common cause with the oppressed of other colonies, in that dark hour through which the sun of independence has risen on this continent. As one of her representatives, I came here upon all subjects connected with the tariff with clean hands. If I did not, I should not be her true representative. But, sir, I did not introduce this subject alone for the purpose of addressing this House. I know not that any fact or argument which I could offer to its consideration, would have the smallest influence upon the decision of the question now before it. Sir, I had another and a higher motive—it was, that I might from this place address myself to the practical good sense of the country, that, perchance, I might awaken in the bosom of the laboring man, as he whistles over the handles of his plough, the inquiry why this unequal and burdensome tax should be continued, mainly for the benefit of the lordly capitalist.

[Before Mr. H. had finished his speech, the hour allotted for the consideration of resolutions expired, and he concluded his remarks on the following day; but they are given unbroken, above.]

The House took up the following bill:

*"Be it enacted, &c.* That so much of an act entitled 'An act to provide for paying to the States of Missouri, Mississippi, and Alabama, three per centum of the nett proceeds arising from the sale of the public lands within the same,' approved the third of May, eighteen hundred and twenty-two, as requires an annual account of the application [by the State of Alabama] of the said three per centum to be transmitted to the Secretary of the Treasury, be, and the same is hereby, repealed."

Mr. CLAY explained its object. It was supported by Messrs. CLAY, WICKLIFFE, PETTIS, and DUNCAN, and opposed by Messrs. VINTON and JENNINGS.

[The debate on this question involved on one hand the propriety of relieving the States referred to from the mere formality of rendering accounts of the expenditure of the fund in question, vexatious to them, troublesome to the treasury, and of no consequence in any view; and, on the other, the impropriety of altering the terms of a compact by a simple act of Congress, and the inexpediency of releasing the States from the responsibility for the just administration of these funds. In reply, it was contended that the provision of the act of 1825, proposed by this bill to be repealed, was not within the contemplation of the compact, and for that very reason ought to be repealed, because it imposed on the States a labor and expense to which they ought not to be subjected.]

The question being finally put on its passage, it was determined in the affirmative—yeas 74, nays 45.

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Duty on Sugar.—Mileage of Members.

[H. OF R.]

WEDNESDAY, JANUARY 12.

## DUTY ON SUGAR.

The House resumed the consideration of the resolution yesterday moved by Mr. HAYNES, of Georgia, for a reduction of the duty on imported brown sugar; and Mr. H. having concluded his remarks—

Mr. ALEXANDER said, that it might be considered unimportant by the House, whether the proposition now under consideration should be adopted, or no. Gentlemen should not lay this "flattering unction to their souls." For himself, he might be said to be almost indifferent as to the disposition that may be made of it, although he concurred fully with the mover in the object desired. Mr. A. was tired of appealing to this House, with a hope of producing conviction upon the minds of those who were interested in keeping up this system of taxation. The time is not long, when an issue must be made up between the people and the Government upon this question. There is a point of depression, yea, and oppression, in the physical as well as mechanical world, beyond which we cannot go without meeting resistance. A great portion of the good people of these United States have borne the ills of Government with a fortitude sustained alone by their devotion to the Union; but they can bear but a little while longer. They have remonstrated and protested, again and again, until these have become "a by-word," are contemned and utterly disregarded, and their only consolation is, to be told that they have the right to protest and remonstrate again. Their representatives have brought forward here, proposition after proposition for a redress of grievances, which have been voted down without even a respectful consideration. There is, then, but one resource left us—we are thrown back upon the States and the people for protection, who, alone, are sovereign, where their rights are concerned.

The States who have taken their stand under the banner of the constitution—not the striped bunting which has been hung up in this hall, to remind us only of their oppression—can never recede without dishonor, and a shameful dereliction of those great principles for which they profess to have been contending, in behalf of the people. Is it not far better, then—more honorable and magnanimous in a self-willed majority—to appease the wrath of an offended and insulted people, by alleviating the burdens of taxation, rather than go on in a heedless, reckless course, leading to consequences which all must deplore?

Sir, we have seen, within a very short space of time, the most important events occur which have ever happened in the history of nations. A day, yea, an hour, has achieved the grandest revolutions of which we read, any where, in times past. France has resumed her ancient constitutional rights. Russia, alarmed for her own safety, has lined her southern border with an army of two hundred thousand troops. Sweden, Holland, all Belgium, is in arms; and we have seen the failure of a single proposition in the Parliament of Great Britain, overthrow the ministry, and bring into power the friends of reform and economy in the administration of the Government—the friends of free trade! These important results have been brought about by a degree of oppression upon the people for centuries past, which they could endure no longer. We should learn wisdom from the examples of the times before us, and not permit ourselves to disregard results which must inevitably flow from certain causes. The same revolution is now going on here, although Mr. A. hoped to see it accomplished in a different way.

Mr. A. said he did not mean to enter into a consideration of the amount of sugar imported into the United States, or that which is produced here—the quantity consumed, the capital invested, nor the number of plantations that will be affected by the reduction. These are views which will properly come up when a bill shall be brought

in. It is sufficient to know for the present, that it is an article which enters into the general consumption of every family, and the revenue arising from it is not necessary for the support of Government. If there be a part of this Union more interested than any other in keeping on the duty, it is the South, because a considerable portion of the property there will be diminished in value in proportion to the reduction. But, sir, we do not come here to legislate upon considerations of this sort, to calculate the advantage gained by the rule of three, although it is a good one to observe in reckoning our accounts at home; looking as we ought to the great and eternal principles of justice, which, pervading as they do all laws of creation, should be made to govern the actions of men!

What, said Mr. A., is the prospect before us? The grandest spectacle ever before exhibited to the world! A nation, after having borne patiently the burdens of taxation, growing out of two wars, now nearly freed from debt; and the question is to be brought home to the people, whether they will submit to keeping up a system of taxes, merely to promote the speculative schemes of politicians seeking to establish a personal reputation upon their ruins! That is the question, and cannot be avoided.

What, sir, has been the effect of the reduction of duties upon salt, coffee, and cocoa, made at the last session of Congress? Why, it was opportunely seized hold of by our minister at London, at a time when our negotiation seemed almost at an end with that court, and urged with such force and argument, to show the friendly disposition of the United States towards England, as well as a sincere wish, on the part of the administration, to re-establish amicable relations between the two Governments, as to result in removing the restriction from the West India trade. A continuance of the reduction of the duty upon an article, in the production of which the West Indies are so much interested, must furnish additional evidence of that spirit which we carried into the negotiation for removing the shackles upon commerce, as perhaps to induce Great Britain to take off some of her duties which bear so heavily upon our productions.

Let us then meet together like a band of brothers, discarding our local prejudices, feuds, and animosities, which have too often disturbed the harmony of our action here; forgiving and forgetting the past, intent alone upon doing justice to the great body of the people whom we represent, without regard to personal or political friendships.

When Mr. ALEXANDER took his seat, Mr. WHITE, of Louisiana, obtained the floor; but the allotted hour being about expiring, the House proceeded to the orders of the day.

## MILEAGE OF MEMBERS.

Mr. HALL moved to recommit the report of the Committee on Public Expenditures, made on the 7th instant, relative to the mileage of members of Congress; and Mr. CHILTON moved the following written instructions:

*Resolved*, That the Committee on the Public Expenditures be, and they are hereby, instructed to report to this House a bill containing the following provisions, to wit:

1. That it shall be the duty of the Secretary of the Senate and Sergeant-at-arms of the House of Representatives, previous to issuing certificates to the members of their respective Houses, for the amounts to which said members may be entitled for mileage to and from the seat of the General Government, to obtain from each member so applying for a certificate, a statement, according to the best of his knowledge, of the distance from the capitol, in the city of Washington, to the residence of said member, computed upon the nearest route which may be conveniently travelled, and is necessarily and most usually travelled, from the one to the other point; which said statement shall be signed by the member making the same.

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*Surveys of the Public Lands.*

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2. That said Secretary and Sergeant shall record said statements, so made and signed, each, in a book to be by him kept for that purpose; and that the Secretary of the Treasury, in publishing his annual statement of the amounts paid to members, shall distinguish between the amount paid for the *per diem* allowance, and the amount for mileage to each member, placing the number of miles charged for opposite the amount allowed.

Mr. HALL moved to strike out all the preceding, from the word "bill" to the end, and insert the following:

"Making it the duty of the Secretary of the Senate and the Sergeant-at-arms of the House of Representatives, with the aid of the Postmaster General, at the end of every session, to make an estimate, as nearly as possible, of the actual distance, in a direct line, of the residence of each member of the Senate, House of Representatives, and Delegate of a territory, from the seat of Government; and that the mileage of members of Congress be computed, and their accounts for travelling be settled, according to such estimate."

These propositions lie over till to-morrow.

#### SURVEYS OF THE PUBLIC LANDS.

The House then proceeded to consider the amendments yesterday reported from the Committee of the Whole to the bill making appropriations for the support of Government for the year 1831, and they were all agreed to but one, which provided for the appropriation of \$8,000 for the survey of private land claims, and \$130,000 for further surveys of the public lands.

Mr. MCCOY moved to amend the amendment, by striking out \$130,000, and inserting \$60,000.

Mr. MCCOY opposed the amendment of the committee. He said the surveys proposed were not necessary. There were lands already surveyed, and not sold, to the amount of from one hundred and fifty to two hundred millions of acres, and there was no good reason why one hundred millions of acres more should be surveyed and thrown into the market. Some of the public lands, he said, were not worth surveying; he was in favor of surveying as fast as the lands would sell, and was disposed to authorize the surveying of the good lands as fast as purchasers could be found for them. Mr. McC. again alluded to the great extent of lands surveyed, and said, that a considerable portion of them would have to be resurveyed—such, for instance, as the prairie lands, in which fires very often took place, and burnt up the marks, &c. which had been placed there by the surveyors. Under his present impressions, he moved to strike from the amendment \$130,000, and insert \$60,000.

Mr. TEST said he generally had a great respect for the opinions of the gentleman from Virginia, who had just addressed the House; but he considered his motion to lessen the sum proposed for surveys, to say the least of it, inexpedient. He spoke of the public lands as an increasing source of revenue, and made some reference to the sales for the past year; and remarked further, that lands to the amount of half a million of dollars had been sold in the State of Indiana.

Mr. JOHNSON, of Kentucky, remarked that he understood the surveyors had asked for an appropriation of \$200,000. The Commissioner of the General Land Office had reduced that amount; and the Committee of Ways and Means had proposed to appropriate only \$130,000 to provide for past arrearages, and surveys for the present year. Under these circumstances, the gentleman from Virginia was desirous of reducing the amount to \$60,000. He had supposed that, in a short session like the present, there would be no disposition, on the part of any member, to introduce propositions for unnecessary discussion. What were the facts? A little over \$100,000 was proposed to be appropriated towards the surveys of the public land; it was necessary these surveys should go on;

and he would ask gentlemen if they were disposed to withhold the necessary appropriations, and thus retard the settlement of the Western country. With regard to the remarks of the gentleman, that the marks of the surveyors would be destroyed, he would say that their marks—the metes and bounds described by them—would last as long as Government itself; the gentleman might make himself easy on that point. The surveys, said Mr. J., should be continued, and homes be thus provided for the numerous emigrants to the West. Mr. J. said it was true that in some States the surveys were sufficient; but there were territories to be peopled, and millions of acres to which the Indian title had been extinguished to be surveyed. He considered that the sum proposed by the committee should be granted, as indispensably necessary; they had shown a disposition to economize in reducing the sum recommended by the Commissioner of the General Land Office; and, so far from reducing the amount proposed by the committee, he was not certain that the whole sum asked for should not be allowed. He hoped, therefore, the proposed amendment would not prevail.

Mr. CLAY, of Alabama, said he had hoped, after what had been said in explanation, yesterday, no further objection would have been made to this appropriation for continuing the surveys of the public lands, and, consequently, had expected no further discussion of the subject. Mr. C. said, the effects of withdrawing the appropriation which was proposed, would obviously be twofold—first, to check the tide of emigration to the West; and, secondly, to cut down and materially lessen this branch of the public revenue. If the public lands were not surveyed, they could not be sold; and individuals would not be disposed to remove to this new region, and devote their time, labor, and money to improving and preparing lands for cultivation, of which they could entertain no hope of becoming proprietors, at least within any reasonable time.

Mr. C. said, the public lands, too, had been an important source of revenue. The receipts from that source had been gradually increasing, until they had grown to an amount of no small importance. The amount paid by purchasers during the year ending on the 30th of September, 1830, was almost two millions of dollars; exceeding, by about half a million, he believed, the amount received in any former year. Mr. C. asked if gentlemen were disposed to change the present land system, and cut off this important branch of revenue.

The gentleman from Virginia [Mr. McCox] speaks of the large quantity of land already surveyed and remaining unsold. Mr. C. said, if the gentleman would examine a document laid before Congress two or three years ago, he would find that a large portion of that quantity—perhaps thirty millions of acres—was sterile and worthless, and about eighty-three millions too inferior in quality to command the minimum price. In the State from which he came, said Mr. C., good land, or that which was fit for cultivation, seldom remained long unsold after it had been surveyed and put in market; and he presumed that was very much the case in the other new States. No danger, he conceived, was to be apprehended that good land would any where remain long in market for want of purchasers.

Again, Mr. C. asked if it be desirable in point of policy that the public lands should be long settled and improved before they were offered for sale. This would certainly be the case if the surveys were suspended; and Congress might again, and would properly, be appealed to, and importuned by petitions, for the right of pre-emption. Those gentlemen who were opposed to the pre-emption principle ought certainly, in Mr. C.'s judgment, to oppose a suspension of surveys. The lands would be settled as fast as they were acquired. It had been long the practice to permit such settlement, and, when occupied and improved, the right of pre-emption had been, and Mr. C.

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hoped always would be, accorded. Looking either to the settlement of new tracts of country, or the interest of the Government, Mr. C. saw no good reason for withholding the appropriation. There had been none made last year; in consequence of which, we were in arrears; for the discharge of which, as well as the expense of the present year, the sum proposed by the committee was intended; which, we are informed by the honorable member of the Committee of Ways and Means, [Mr. VERPLANCK,] does not exceed the average amount appropriated for the same purpose for some years past. Mr. C. saw no necessity for further remarks, and hoped the question would be promptly settled.

Mr. STRONG said he did not understand the subject under consideration so well as he could wish, and hoped the gentleman who reported the bill would give the necessary information to enable him to act understandingly. Surveys might be necessary in Michigan, Florida, Indiana, and perhaps some other State; but why ask for an appropriation of one hundred and thirty thousand dollars? In 1828, but forty-five thousand dollars was appropriated; in 1829, fifty-one thousand dollars. In 1830, there was no appropriation—the Commissioner of the General Land Office having informed the House that there was a balance of eighty-four thousand dollars on hand. He desired to know what rendered the proposed appropriation necessary; and would also like to be informed of the necessity of bringing into market so great an amount of lands as the sum proposed to be appropriated would survey, in addition to those lands already surveyed. The Commissioner of the General Land Office had designated certain sections of the public domain which it was expedient to have surveyed the present year; but this survey would not require the sum proposed to be appropriated. Why then grant so much, unless we have abandoned all notions of economy? If any substantial reasons could be shown why the proposed appropriation was necessary, he hoped they would be given.

Mr. VERPLANCK said, that since he had been a member of the Committee of Ways and Means, he had often noticed the singular contrast in which he was placed when here, and when in the committee room. There were numerous demands before the committee, and their object was to reduce appropriations proposed to as small an amount as possible; while here, in this House, that committee was accused of extravagance. Such, in part, was the imputation cast upon them by the motion now before the House. The requisition made upon the General Land Office by the surveyors, for the present year, had been two hundred thousand dollars; the commissioner of that office, considering the sum too great, had reduced it to one hundred and fifty thousand dollars; the Committee of Ways and Means, in the fulfilment of what they considered their duty, had asked for an appropriation of only one hundred and thirty thousand dollars. The proposed amount would pay the arrearages of the last year, and leave for the surveys of the present year a sum averaging the amount appropriated for surveys for the last eight or nine years—perhaps it would fall below that average—the allowance, after paying arrearages, would leave about eighty or ninety thousand dollars. If gentlemen would examine, they would find that to be about the average sum appropriated for the survey of the public lands since the year 1831. Mr. V. then alluded to the valuable lands in Louisiana, the survey and settlement of which had long been retarded by claims of individuals having grants from the former Governments, which possessed that country, and spoke of the great desire of this Government to bring those lands into market. He said, if the proposed amendment now under consideration prevailed, it would reduce the appropriation for surveys to about thirty thousand dollars—a sum altogether inadequate. He hoped this encroachment on the usual course of the Government would not be made.

The Committee of Ways and Means had done their duty in proposing the appropriation, and it was for the House to decide whether the appropriation should be made or not.

Mr. SEVIER, of Arkansas, said he had witnessed with regret the opposition manifested by the gentleman from Virginia to the appropriation for surveying the public lands. I am one, said Mr. S., who believe the appropriation for this object should be increased, rather than diminished. We are told by the Commissioner of the General Land Office, that the surveys of the public lands have not advanced to the extent desired, in consequence of no appropriation having been made at the last session of Congress. We are told, from the same quarter, that, to meet the expenses of the surveys made in 1830, and those which will be required in 1831, an appropriation of one hundred and fifty thousand dollars will be necessary. With this information before us, I am at a loss to account for the gentleman's opposition. The department, I humbly conceive, should be given the funds required. The department should have more than is required. Why do I think more than is asked should be given? I take for granted the commissioner has formed his estimate for those surveys which he considers are demanded immediately; and in this estimate I discover he has said the surveys in Missouri, Illinois, and Arkansas, have been made to an extent equal to the present demand. It is not for me to attend to the interest of Missouri and Illinois: those States have their representatives upon this floor, who can answer for themselves. But of my own country I profess to have some little knowledge. I hope the commissioner will pardon me when I tell him the surveys of the public lands in Arkansas have not been equal to the present demand. I hope he will not persist in this opinion, when I assure him that there are many counties containing thousands of inhabitants, which I have the honor to represent, in which not one foot of the public lands has ever been surveyed. I trust he will forgive me when I tell him that the surveys of the very land bordering upon the capital of Arkansas, and the most valuable of any we have, are yet incomplete. My constituents conceive that their interest in this particular has been grossly neglected; and for this neglect they have complained, and do yet complain, of the commissioner of our land office and our surveyor general. I am far from attributing any sinister motive to the worthy commissioner. I do not believe he wishes, by the management of his office, to retard the growth and settlement of that country. I must attribute his report to a woful ignorance of our wants. I must believe he has been too much engaged in his office to learn with sufficient accuracy the map of that distant and neglected country.

By examining the report of the commissioner, we discover that a smaller quantity of the public land has been sold in Arkansas than in any other section of the Western country; that, including all of the public sales from 1822 to 1830, there have not been sixty thousand dollars paid to the Government. Why has such an insignificant sum been received from the sales of the public land in that country? The commissioner himself ought to be able to answer the question. It is because there has been but little good land surveyed and in market. In what manner, sir, have the surveys in Arkansas been conducted? You have given us no surveyor general to reside among us. He resides in St. Louis, four hundred miles from our capital. He knows nothing of the situation of our country; is governed entirely in letting out his contracts by the representations of deputy surveyors. These deputies know their own interest. Their engagements to survey are generally in the prairies, and in the poor and barren sections of the country. Sir, I do not blame them. They could not afford to survey the rich lands of Arkansas, covered with cane, and almost impenetrable forests, for three dollars a mile. To provide against this evil, at the last session of Congress, an act was passed authorizing the surveyor gene-



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ral to allow his deputies for surveying the good lands in Arkansas, four dollars a mile. When such lands as these are surveyed—lands like these, upon which our settlements are almost entirely confined, you will perceive a very great increase in the income to the Government from the sales of the public lands.

At the last session of Congress an act was passed granting, for a limited period, the right of pre-emption to settlers upon the public lands. That act is about expiring, and but few of the citizens of Arkansas have availed themselves of its provisions. And why? Because the lands upon which they live have not been surveyed. They petition Congress at this present session to continue the act in force for a longer period of time. And why? Because the land upon which they live has not been surveyed. Yet the commissioner tells us the surveys in Arkansas have been made to an extent equal to the present demand.

Let me ask the gentleman from Virginia what difference it would make to the Government if all the public lands in each State and Territory were surveyed during the present year. The information the surveys would afford would surely be desirable to the Government; and I apprehend, at no future day, the cost for surveying would not be less than it is at present. The honorable gentleman seems to fear that the corners made by the surveyors in the prairies would be destroyed by fire, and, as a consequence of which, the land would have to be surveyed again. If that gentleman had been in prairies as often as I have, he would have known that these corners are made of other materials than wood; he would have known that at each corner mounds were made, which fire can never destroy. There is no instance within my knowledge, when the public lands have ever been twice surveyed, for this or any other cause.

What would be the consequence if you were to stop the public surveys? Would you not injure the Government? Would you not deprive it of an annual income by no means insignificant? Would you not find it impossible to keep off settlers from the public lands? They would come and occupy it, wear out the soil, destroy the timber, without paying a tax to the federal or local Government. This would be the consequence to the General Government; and, by stopping the surveys, you would injure our own citizens. They would live in constant dread and uncertainty: they would make no valuable or lasting improvements, for fear of losing their labor. By such a course, you would limit exportation, weaken the agricultural interest, and, of course, the great resources of individuals and the General Government. I shall trespass no longer upon the indulgence of the House. I hope the proposed amendment will be rejected.

Mr. VINTON said he was glad that the gentleman from Virginia had submitted his motion, and hoped it would prevail. He was one of those who believed the operations of the surveying department, for some years past, had gone to great excess, producing highly injurious effects throughout the whole Western country, and seriously deranging the land office department. It was time to bring back the land system to a healthy action; such as it possessed prior to the late war. The survey of land was a step preparatory to its being exposed to sale; and when surveyed, it would be forced into market, whether the quantity on hand would justify its introduction or not. It will hence be obvious that the surveying department really regulates the proportion between the demand for land, and the quantity in market; and it is only by a skilful and judicious management of that department, that any just proportion between the supply and the demand can be maintained. The land office commenced its operations under the present system in 1801. For the first fifteen years, and up to the close of the war, the quantity of land surveyed, making due allowances for bad land, did not go materially beyond the demand. That was the period of

the greatest prosperity in the Western country. The value of both public and private property was sustained; a circumstance that gave activity to the sales, and confidence to the purchaser.

Shortly after the war, this salutary policy was lost sight of. Immense districts of country were surveyed and suddenly thrown into market, so that, at the close of 1825, there had been surveyed in all one hundred and thirty-eight millions of acres; and for the five last years, great quantities have also been surveyed, probably amounting to some forty or fifty millions more; the exact amount not known. Of these one hundred and thirty-eight millions then surveyed, between twenty-three and twenty-four millions had not been brought into market. At that time, the entire quantity sold since the year 1800 was less than twenty millions—between 1825 and the present time, the sales have amounted to about one million of acres per annum.

We have not been informed what quantity of surveyed land that is now on hand, has not yet been brought into market. It is to be presumed it has not been diminished since that time. The result of these facts is, that, at the close of 1825, and probably at the present time, the quantity surveyed and prepared for sale, but not yet brought into market, exceeds the whole amount sold for these thirty years, and exceeds also the existing annual demand about twenty-five times. That the quantity now in market, and seeking a purchaser, exceeds the annual demand more than one hundred times, and is about seven times as much as the whole amount sold since the year 1800. Now it must be borne in mind that the land system is nothing more nor less than a great concern for vending land; and, like any other article, if more of it is forced into market than can possibly be used, the inevitable consequences of a glut in the market, a depression in the value of the property of the public and of individuals, and the derangement and distress incident to such a state of things, must follow. We here, sir, get at the true cause of the growing complaints of the new States. Every part of the Western country is oppressed with this operation, and dissatisfaction every where prevails. The old settlements are dissatisfied, because you crowd into market such vast bodies of land around them, as to depress the value of the property they have purchased of you, faster than they can add to it by their labor. A farmer in Ohio, who has devoted to his farm the labor of his life, and that of his family, can scarcely dispose of it at this day, with all its improvements, for as much as he paid you for it some twenty or thirty years ago. He has a right to be dissatisfied with this unreasonable glut, and he is dissatisfied.

While he expects you will sell the public domain, he has a right to demand of you that you shall not so conduct that operation as to destroy the value of his property without benefit to yourself. Good faith forbids you to do so. The new settlements, if possible, are still more oppressed by this state of things. On a sudden you have thrown into market a hundred millions of acres of land, extending from the Gulf of Mexico to the Upper Lakes, requiring many millions of inhabitants to convert them to use. A few of them are taken up, and very sparse settlements are scattered here and there over the whole country. There is not a surplus population in the United States that can be detached from their present situations and employments to people the vast region of country thus open for settlement: nor can there be such a surplus for a generation yet to come. These new settlements, therefore, fill up very slowly—and in the newest settlements the sales are, generally speaking, the most limited in amount. The occupants see vast bodies of excellent land around them, without any one to buy—every thing goes on heavily, and they naturally enough think the Government retards their growth; and bring themselves to the belief that the country around them is not sold and settled on account of the price at which the Government holds it being too high.

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The anxiety of all new formed settlements to increase their numbers is very great; and that anxiety not being gratified, and suffering under the inconveniences incident to a new country, they become greatly dissatisfied, and charge the whole fault to the Government. Hence the agitation that is constantly kept up on this subject in the new States, and the high toned pretensions of Illinois in particular, about the right of property. We are now called upon to add to and aggravate this distressing state of things, by surveying four thousand six hundred townships more, amounting to one hundred and three millions of acres, at an expense of a million of dollars. The appropriation proposed in the bill will survey twelve millions of them, and is but the entering wedge of others that are to follow to execute this great project. Can any man entertain a doubt as to the effect of adding to the quantity now in market the enormous amount of one hundred and three millions of acres?

It has been already shown that there are now in market many millions which we have no ability to people; and is it not far better that some portion of the vast regions now in market should be disposed of and settled, before we bring any considerable additional quantities into market? If any particular settlement should take a direction into an unsurveyed region, Mr. V. said he would survey and bring it into market, so that the market might always be kept fully adequate to any demand. Beyond that he would not go for the present.

The quantity of land now in market being far greater than any existing demand for settlement, and of as good quality as any that remains to be surveyed, it follows as a necessary consequence, that, by increasing the quantity, you do not in reality open any additional room for settlement; nor can you expect in that way to add a single inhabitant to the aggregate population of the new States. All that you can effect by this operation, is, to diffuse our population over a greater region of country, where, in point of fact, the sparseness of population in that already settled is among the greatest evils it has to overcome. He said he most conscientiously believed that the vast bodies of land that now glutted the market, had depressed the actual value of the public domain, and of private property, at least fifty per cent. below what it would have been if a proper regard had been paid in adjusting the supply to the demand; while he did not believe the aggregate population of the country is any greater than it would have been by keeping the market always fully supplied, without going materially beyond that point. The hundred millions now proposed to be prepared for sale must inevitably produce still greater depression, in both public and private property, to an extent that no one can, with certainty, foretell. The land now in market is diffused throughout all the new States and Territories. There is not one of them where the quantity in market is not now more than thirty times as great as the annual sales, and in many of them many hundred times as great. And, singular as it may seem, where the disproportion is the greatest, the call for additional quantities is the most urgent.

The gentleman from Arkansas is very anxious for this appropriation, and informs us the settlement of that territory is retarded for want of land in market. Now, it appears that, so long ago as 1825, more than eleven millions of acres had been surveyed in that territory. What quantity had been since surveyed, he did not know; but the entire amount of sales for the last year did not exceed one thousandth part of the quantity surveyed and unsold; indeed, the whole amount sold would not make more than half a dozen good plantations; and the whole sales ever made there would very little more than pay the salaries and expenses of making the sales, without taking into the account more than a hundred thousand dollars paid for the surveys already made. Nothing can show more forcibly than this case, that it is not additional land that is wanted;

but it is people that is wanted, to occupy those already exposed to sale. The gentleman from Florida had also expressed his anxiety about this appropriation. In 1825, the amount surveyed in that territory was about three millions of acres, and he believed about the same quantity had been surveyed within the last five years, while the annual sales in that territory do not amount to a fiftieth part of that quantity. The same remarks were applicable to Michigan, and, in general, to all the new States. For these reasons, he could not see any necessity for expending a larger sum than is proposed by the gentleman from Virginia. His amendment would leave at the disposal of the department, after discharging the arrearages now due, thirty thousand dollars, which would survey three millions of acres for the current year, while the sales will not probably much exceed one million. If we should come back again to the old principle and practice before the war, from which we have departed, and hereafter survey some two or three millions per annum, we should then keep constantly on hand and exposed to sale one hundred times as much as the annual demand. But in that way we should prevent things from growing worse, and avoid further unnecessary depression in the public property, or that of individuals. He thought it to be our duty to afford a reasonable protection to both. Entertaining these opinions, he hoped the amendment of the gentleman from Virginia would be adopted.

Mr. DUNCAN, of Illinois, said, though he felt very anxious that an appropriation should be made to continue the surveys of the public land, he had intended to permit the vote to be taken without submitting a remark, as he considered the requisition of the Treasury Department, and the recommendation of the Committee of Ways and Means, as ample evidence for the House to form their judgment upon; but, he said, the gentleman from Ohio [Mr. VINTON] had spoken of pretensions set up by Illinois, in such a manner as to justify him, he hoped, in troubling the House with a few remarks in reply. He said he had heard nothing of Illinois until the gentleman had himself mentioned it, and was at a loss to know what was meant by the gentleman's remark. He assured him that he would urge nothing for Illinois, on this or any other occasion, that was not just and proper to be granted. He said, by the gentleman's own showing, it would be seen that a very large portion of the State of Illinois was yet to be surveyed—only twenty-seven out of forty odd millions had been surveyed. Mr. D. spoke of the quality of the soil and beauty of the country in the northern section of Illinois, and north of it, and the prospect of its immediate settlement when surveyed and brought into market. He said there was now, and had been for several years, a large number of citizens, estimated at near ten thousand, residing in the northern part of Illinois, far beyond the present surveys; that an equal or greater number resided north of the State, in the Northwest territory, where there was not an acre of public land surveyed. He hoped that a statement of these facts would sufficiently show the necessity of extending the surveys in Illinois and Michigan; and from statements he had heard made by other gentlemen, it was clear to his mind that the necessity was equally pressing in other sections of the country. He said, if further evidence of the necessity of these surveys was necessary, he could refer the House to several petitions now upon their files.

Mr. D. said, the argument of the gentleman from Ohio [Mr. VINTON] in opposition to this appropriation was such as he would have expected from the land speculator; and if he were permitted to make a guess, judging from his speech alone, he should say, that the gentleman was himself an extensive landholder or speculator in lands.

[Mr. VINTON here rose, and denied that he was a land speculator, or that he was the owner of any quantity of wild lands.]

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The SPEAKER remarked, that the gentleman from Illinois did not say that the gentleman from Ohio was a speculator; if he had, he should have stopped him, as such a remark would have been out of order.

Mr. D. proceeded, and said, that the whole argument of the gentleman was in favor of keeping up the price of private land, by keeping the public land out of market; which he said was a policy peculiarly favorable to the land speculator, and oppressive to the poor, who has his home yet to purchase. He said that a farmer, who wanted his land for his own use, cared but little whether it was estimated at a high or low price; nor did such men generally care at how low a rate their poor neighbors purchased their homes; it was only those, he said, who had land to sell, that felt much interest about the price it bears.

Mr. D. believed it to be the true policy of the Government to survey all the lands within the States and Territories as soon as possible, and bring them into market. He thought it quite probable that there were enough settlers at this moment on the unsurveyed land, who are prepared to purchase their homes, to pay enough at once to defray the expense of surveying all the public lands yet to be surveyed in the States. He said, in reply to the fear expressed by the gentleman from Virginia, [Mr. McCox,] that the public lands would have to be resurveyed, that he believed the suggestion was entitled to little or no consideration, as there never had been a case of the kind; and he believed, from the manner of executing those surveys, that there never would be such a necessity, unless the survey should be erroneous. He thought it was too late for gentlemen to succeed in an attempt to arrest the emigration to the West. People, he remarked, are now settled, in large or small bodies, in nearly every district of the public lands where the Indian title has been extinguished; and he held it to be the duty, as well as the best policy of the Government, to afford them an opportunity of purchasing their homes as soon as possible, and on the most favorable terms.

Mr. WICKLIFFE said he was opposed to the motion made by the member from Virginia, [Mr. McCox,] to reduce the amount of appropriation for the surveying of the public lands; and he observed he should have given a silent vote on the question, but for the remarks of the honorable gentleman from Ohio, [Mr. Vinton,]

If the amount of the appropriation in this bill is to depend upon the soundness of the policy which that gentleman advocates, in reference to the public lands, this House will bear with me, said Mr. W., for a few moments, whilst I expose the unsoundness of such a policy—its utter ruin to the Western country. It is a policy which belongs not to the West: it has its origin and permanent residence in other regions. Feeling a lively interest for the growth and prosperity of the land of my birth, and of my home, I am compelled to rise in my place, to-day, and, in the name of the whole West, the entire West, the "further West," repudiate the doctrines advanced by the gentleman from Ohio. These doctrines and opinions belong not to the West: they are exotics, and cannot flourish in that climate.

I do this, sir, thus explicitly, because these opinions, emanating from so respectable a source as the member from Ohio, may hereafter be referred to as furnishing evidence of the public sentiment now, among a people with whom it is my pride to have lived.

The gentleman, as a representative of the West, is peculiar in his opinions on this subject. I doubt if another man, west of the mountains, in or out of this House, thinks as he does upon this very interesting question. I attribute to the gentleman every sincerity of motive to which he is entitled. His opinions are the results of early impressions in the land of his birth, (New England,) where they have been long cherished, and which were boldly unfolded at the last session, in the resolution of a Senator from Con-

necticut, the pretext (not the subject-matter) of a long and able debate in the Senate, upon every other subject save the one proposed by the resolution.

I hope, Mr. Speaker, it is not the wish of the gentleman to renew that discussion in this House upon an item in an appropriation bill. If it be the object of the member to get up a discussion upon the subject of the public lands, I invoke him to submit his proposition—let us see its length and breadth upon paper, in a tangible form, that we may discuss it, and vote it down. What are the objections of the member from Ohio to the appropriation now under consideration, and the arguments by which these objections are sustained? The gentleman says, we have more land now surveyed than we shall be able to sell in thirty years; and he has furnished us with the tables of the quantity surveyed, and number of acres sold. His statistics I do not controvert. Admit the facts and his inferences, is it any argument against continuing the surveying? If the argument is worth any thing, it would have its full weight upon a proposition to suspend, by law, the sales, not the surveying, of the public lands. We are not obliged to bring the lands into market so soon as surveyed, if it be the policy of the Government to limit the sales of the public lands, and confine the population to the States and Territories already surveyed. If it were proper to do this, and a law were now passed, declaring that not another section of public land should be surveyed until the last acre now surveyed was sold and occupied, still it would be proper to progress with the surveying, that the Government should know something of the quality, soil, and situation of the public domain.

Other reasons might be urged why the surveying of the public lands should progress rapidly; but I pass by them, to consider the main point in the gentleman's argument, which has often been presented to us in this or some other shape, and by the member from Ohio especially. And that is, if I understand it correctly, the United States, by her land system, by the reduction of the price of the public lands, holds out inducements to the citizens of the older States to emigrate, and purchase land for themselves, thereby extending our settlements beyond the limits which a true regard to the interest of the Government, and of individual landholders, will justify. And, again: By the immense quantity of public land which the Government has brought, and is still bringing into market, the quantity is greater than the demand; consequently, the price of landed estate in the hands of individual purchasers from the Government is less, and more than one-half its value, thus producing ruin upon whole communities, as well as operating injustice to individuals.

I have, Mr. Speaker, given the substance of the gentleman's argument, if not his words. I invite him to review it himself, and see if he is willing to stand by it. I propose to analyze it briefly, that we may see if it be founded upon that public policy which has, and which I hope ever will be pursued by this Government: a policy connected with her true interests and future welfare—a policy which will give physical strength and moral energy to the population of the United States. I mean such a disposition of her public lands as will put it in the power of every man, however poor and humble in society, to acquire a home for himself, and a fireside for his family. With a population of freeholders, of men who have their homes with all the interesting endearments which belong to that name, and a Government to which they may turn and look upon as a benefactor, what have our free institutions to fear from intestine divisions or foreign invasion? Nothing, sir—nothing.

With a Government like ours, and our citizens freeholders, liberty must ever be secure in this her favored land. No hostile Power will dare plant upon our borders his footsteps. I wish I could offer stronger inducements than at present exist, to my countrymen, who are the tenants,

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and give more than half their substance and labor to landlords, to pull up the stakes, and take up the line of march to a country where the labor of six months will buy them a home of far better land than that upon which they eke out a miserable existence of labor and penury, that aristocracy may live in splendor and pomp. The effect of the gentleman's policy is to continue this state of things. He insists that the United States shall not bring her public lands into market; because, by doing so, the value of the real estate of individuals is lessened—they can neither sell nor rent their lands so high. Our population is extending itself, and the older States sustain a material injury.

Land is too cheap already, says the gentleman. I will recollect the policy recommended by the Secretary of the Treasury, (Mr. Rush,) under the last administration; and this argument of the gentleman from Ohio has called it to memory at the present moment. He, sir, was in favor of what is now a very fashionable term, "the American system." He was, in his report, justifying the principle, that the agricultural interest of the West ought to be taxed, to support the manufacturing interest of the East; because, in his opinion, Congress, by the reduced price at which public lands were sold, gave to agriculture a bounty equivalent to the increase of taxation in favor of manufactures; and if my memory does not deceive me, he condemned the policy thus pursued, because it excited to emigration from the manufacturing districts, and thereby enhanced the price of labor to the manufacturer; and thence deduced an argument in favor of this taxation upon the farming interests, for the benefit of the manufacturing States. How was this argument received in the West? With universal disapprobation; as the elections of 1828 will attest. I protest against it in every shape, whenever and however used. That policy which has for its object to build up an interest in this country at the expense of the farming interest, which has for its purpose the concentration of population, in order to reduce the price of labor, and exact from it its hard earnings to sustain a particular interest—call it by whatever name you will, give to it all the charms which impassioned eloquence can claim—I am utterly opposed to it.

And this, Mr. Speaker, is the tendency of the gentleman's argument. He, too, thinks that the facility which this Government affords to a poor man to escape from the vassalage of a tenant to the freedom of a landholder, lessens the price of lands in the hands of individuals, and increases the price of labor. But, sir, the gentleman claims it as an act of justice which we owe to those who have bought lands of the Government heretofore at two dollars per acre, to hold up our lands. For what purpose? That these purchasers may sell again, to realize a profit, I suppose.

Again: The gentleman says the price of land has fallen to half its former value, in consequence of the policy which the United States has pursued in reference to her public domain for the last twelve or fourteen years. I deny that it is owing to this cause entirely, if, indeed, at all. Other and more immediate causes must present itself to the inquiring mind. Is it in this country alone that the price of real estate has fallen? Is real estate in this country the only estate that has depreciated? No, sir, every thing has sunk in value, and the true cause may be traced by the political economist in the appreciation of the medium of exchange—the precious metals; and the man who buys his land now in Illinois at one dollar and twenty-five cents per acre, pays as much for it as the gentleman's constituents, who bought seventeen or eighteen years ago at two dollars per acre. Sir, he pays more, according to the comparative value of specie then and now, as estimated by the report of the Committee of Ways and Means on your table. This policy of stopping the surveying of the public lands now, will very well suit the gentleman's own State, where every acre has been

surveyed, and subject to location. Stop the surveys, and limit the sales in other States and Territories, and you will perhaps increase the tide of emigration to the great and flourishing State of Ohio, and you may increase the value of lands owned by private individuals too. Is it our duty to do this? Shall we, by our legislation, attempt to restrain the tide of emigration? You might as well, sir, attempt to stay the tide of that mightiest of rivers which gives name and consequence to the Western country. There are reasons, however, sir, unconnected with this view of the subject, why the surveying of the public lands should progress with accelerated rapidity. The tide of emigration in front is forced on by its succeeding wave, and your public lands will be occupied by your citizens, and improved, whether you survey them or not; and what is the consequence? At every session of Congress, at this session, we are compelled to interrupt our regular system of disposing of the public lands, by granting to these honest pioneers the right of settlement and pre-emption. No Congress has yet refused it; no Congress will refuse it. My situation as a member of the Committee on the Public Lands, enables me to speak of the fact, if it has not already attracted the attention of the House, that petitions from every quarter in behalf of this worthy class of our population now lie upon your table, calling upon you to extend to them the privileges of the pre-emption law of last session, upon the ground that the land on which they reside had not been surveyed; consequently, they could not avail themselves of the beneficent provisions of that act. We must grant it them; we cannot refuse; and I hope no American Congress will be found willing to expose the home, the labor, of a citizen to the highest bidder, with a view to wring from him the last dollar to pay for that which his own labor has produced—his little tenement, the shelter of his family. There is but one way to stop these appeals, and that is, by surveying the land as speedily as possible. You cannot prevent your citizens from taking possession of the public lands. You may pass your penal laws to prevent it, but you cannot enforce them. The public sentiment and feeling are against such laws, and they would be dead letters on your statute book. I trust, sir, the amendment will not prevail, and that the Government will be permitted to progress with all reasonable despatch to execute the surveys, and bring the lands into market.

Mr. WHITE, of Florida, said, that the delays and difficulties succeeding the acquisition of Florida by the United States, the time required for the examination and decision of the claims derived from the former Government, and the removal of the Indians, had retarded the surveys of the public lands in that territory. Whatever might be the necessity in other quarters, where these embarrassments did not exist, he was sure it would operate injuriously to that part of the country whose interests it was his duty to guard on this floor. He was opposed to striking out the proposed appropriation, and most solemnly protested against the arguments on which it was urged upon the House. If he properly understood the honorable member from Ohio, he was in favor of striking out that section of the bill, because there were lands enough surveyed for the market; and offering new lands for sale would depreciate the price of that before purchased. This might suit the meridian of Ohio, Illinois, and Missouri, but it is not in accordance with the rights or interests of Arkansas and Florida. The gentleman has said that eight millions of acres have been surveyed in Florida, because he has a printed statement saying that twenty-four millions were to be surveyed in 1825. I do not believe, at that time, that there was half a million surveyed; and the only way in which it can be accounted for is, that the author of the paper he holds in his hands put down the private land claims that were held under the treaty, as no part of the public lands to be surveyed.

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*Surveys of the Public Lands.*

[JAN. 12, 1831.]

[Mr. VINTON explained: He said he had derived his information from the statistical tables of Van Zandt and Wattertson. From these, it appeared that, in 1825, three millions of acres of lands had been surveyed in Florida; there were now seven millions surveyed. There were said to have been thirty-one millions of acres of land purchased by the United States in Florida. By a statement of the delegates from that territory, read from the Clerk's table yesterday, it appeared that twenty-four millions of acres remained to be surveyed, and the gentleman could therefore make his own calculations of the quantity that had been already surveyed.]

Mr. W. continued, urging the many considerations of policy and expediency of proceeding with the surveys, the necessity for encouraging settlement and population. He stated that the poor settlers who were entitled, by the bounty of the Government, to a pre-emption, could not enter their lands for want of an extension of the surveys.

Mr. PETTIS, of Missouri, said the House was then engaged in a discussion on a subject about which it appeared to be in order to say any and every thing, save that which related to the subject itself. He was not disposed to follow the example set him. Whilst he was anxious to avoid every remark calculated to produce the least excitement, he was very desirous of having an opportunity of placing the subject of the surveying of the public lands in its proper light before the House.

Mr. P. begged leave to remind gentlemen of what had frequently occurred in the House when any discussion took place on the subject of the public lands. Whenever any proposition was before it proposing to amend the system in regard to the mode of disposing of the public lands, whenever it was proposed to reduce the price of these lands, yea, the refuse of these lands, and that to actual settlers, in small parcels; we of the new States have had it rung in our ears from various quarters of the hall; we have been entreated by gentlemen not to interrupt the existing system in regard to these lands. We have been told that the system was devised by the wisest men of the nation, and matured by the wisdom of experience. They have said to us, "let us go on in the usual way; we are disposed to be liberal to the new States." Sir, said Mr. P., the tune is now changed. The gentlemen are themselves proposing an innovation of the most prejudicial character to the new States and to the Territories. Your Committee of Ways and Means have told you that the estimate made by the several surveyors was \$200,000 dollars; that made and sent in by the Treasury Department was \$150,000; and the committee propose appropriating but \$130,000 for the surveys to be made the ensuing year. We all know that no appropriation was made for this object at the last session; and the committee have told us that the land office department was, in consequence, \$30,000 in arrears. The committee have stated that the appropriation recommended by them is about the average of such appropriations made during the last seven or eight years, and not so much as had been appropriated for many years previous thereto. Notwithstanding these facts, we have seen the gentlemen heretofore so much opposed to innovation, proposing to strike out the appropriation recommended, and inserting less than half that sum. We have been told by the gentleman from Ohio [Mr. VINTON] that this is an enormous appropriation, and that the sales of the public lands do not justify it. The net proceeds of these sales for the last year amounted to nearly two millions of dollars. Can this appropriation, then, be considered enormous? That gentleman has told us that, from 1815 to 1820, the Government surveyed and brought into market too great a portion of these lands, and that the consequence had been a great depreciation in the value of lands in the hands of individuals. And he now opposed the present appropriation, because, as he says, it will bring too much land into market, and the result will be a further depreciation of the

price of private property. Mr. P. said he was not disposed to attribute personal motives to the gentleman from Ohio, but he did impute to him considerations of State interest. The true secret is, that Ohio has no more public lands to be surveyed. All the public lands within her limits were surveyed during the time when, according to the gentleman from Ohio, the Government was pursuing an extravagant course in regard to these surveys. We then heard no objection from Ohio. It is well known, that, during that period, Ohio had grown up in a manner unparalleled in the history of the world. Large appropriations for surveying were then well enough. Nearly all the public lands within her limits have been sold, and now we are called on to stop the surveys, for fear it may have an injurious effect upon private property in Ohio. We must not, it is said, bring these lands into competition with private lands in that State. They have reaped their harvest; they have had their lands surveyed and sold under this system; the private property of the citizens of the old States has, if you please, been depreciated in value for the benefit of Ohio; this State has rapidly populated from the old States under this system; but now, forsooth, Ohio having all she desires, the system of surveying is to be stopped for her benefit, to keep up the value of her private property, and to keep her population from being induced to migrate further west. This is not all; there is another motive. On a certain occasion, a million of acres of the public lands were given to Ohio for making canals. He would not say it was given by way of bribe. It is true, however, that, at a particular crisis, two bills were pushed through Congress, having different and opposing friends, each bill making a donation of about 500,000 acres of land. These lands have been selected in small parcels from the best of the public lands in that State; and now the survey of other public lands is to be checked, to prevent other lands from being brought in competition with these lands, thus given and thus selected, and to keep up their value. Sir, said Mr. P., is this liberal? Is it generous? Is it fair? He would not say it was unjust, but he would say it was very unfair. The gentleman from Ohio, [Mr. VINTON,] not satisfied with using these arguments, has thought proper to state that the most of the revenue arising from the sales of public lands is drawn from the old land districts, and consequently from Ohio. Sir, the gentleman is mistaken. The fact is not so. The sales of the public lands in the State of Illinois, for the last year, amount to nearly double the amount of those from Ohio. The sales in Missouri, in Indiana, and in Alabama, greatly exceed those of Ohio for the last year.

The gentleman from Ohio has based his opposition to this bill on the ground that there is already more land in market than is demanded by purchasers. He contends that the Government should act as an individual, and not permit the supply to exceed the demand for it. Was not this the case when the Government was making such liberal appropriations for surveys in Ohio? Could the gentleman, at any period referred to, have said, in favor of more surveys, that the Government can sell more lands in the next year than are already surveyed? Shall we now change our course for the benefit of Ohio, who, from her proximity to the old States, has always possessed a great advantage over other new States? Shall the Government hug the public lands as a treasure for mere purposes of revenue? Shall they prize their lands as the sordid miser does his gold? This doctrine has been utterly disclaimed by all parties in another quarter. The proposition to stop the surveys of the public lands had been discussed at great length in the quarter referred to. It received a decisive negative, not only then, but, as was then believed, its everlasting quietus, by the good people of this nation. Believing this question at rest forever, he had been taken by surprise in this debate. He would take this



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occasion to say, however, that he considered it the duty of the Government, and very important to the new States, that these lands should be brought into market as speedily as the United States can reasonably defray the expense thereof, and that every facility should be afforded to the extinguishment of the title of the Government in and to these lands. And to this end, he contended the price of these lands should be reduced, especially in favor of actual settlers. He made these remarks, because he was well satisfied that this opposition to the surveying of more lands was a preliminary step to the stand to be taken against any reduction of the price of public lands. Gentlemen have been railing against innovation in the land system, until they have got ready their own machinery; and now they are for a vigorous effort to oppress still further the new States, in regard to the public lands.

Mr. P. said he felt himself bound to take notice of the remarks made by the gentleman from Ohio, [Mr. VIN-  
RON,] and by the gentleman from Kentucky, [Mr. WICK-  
LIFFE,] relative to the claims set up by some of the new States to the public lands. The gentleman from Ohio, in opposing this appropriation, has thought proper to urge, as a reason for his opposition, that some of the States had certain pretensions to the right of property in the lands within their limits; and insinuates that the United States should survey no more of these lands, because he says it is for the States thus setting up their claims. The gentleman from Kentucky, in repelling these insinuations, has indulged himself in ridicule of those who entertain such opinions. He has, indeed, uttered very severe denunciations against them. He was sorry to hear such remarks from that quarter; but he felt himself called on to make a reply. Mr. P. said it was well known to the House, that, during the last session, the new States were ridiculed, taunted, reproached, for the pretensions some of them had made to the right of property in the public domain within their limits. This was urged then as a reason why the proceeds of the lands should be divided among all the States, for the purposes of internal improvement and education. On that account, the public lands in the new States were to be seized on, and divided out among the old States. Observing the strong prejudices which had been excited by these insinuations, he attempted to remove them, by frankly and fully stating the arguments and grounds on which they relied for the justness of their conclusions. He had asked to be shown the part of the constitution which authorized the United States to hold lands within the limits of a sovereign State. He had insisted that, if the Government could hold these lands, and sell them, they could lease them, and make the citizens of the new States tenants to the United States. He had urged, that the practice of the Government, in regard to crown lands in the old States, showed what the first opinions under the constitution were on this subject. He had, as politely and respectfully as he could, invited gentlemen to answer his arguments. No one, not even the gentleman from Kentucky, had met the argument. None had undertaken the task. The subject had, it is true, been touched on in another body, and barely touched on, for the argument was not met. The gentleman from Kentucky had now, for the first time, alluded to the subject, and, instead of meeting the argument, he has undertaken to denounce the doctrine as a dream, a vision, a popularity-hunting scheme. [Here Mr. WICKLIFFE asked leave to explain: He said he assured the gentleman from Missouri that he did not allude to him. He had neither heard nor read his speech, and was not thinking of it.] I thought so, continued Mr. P. I thought the gentleman had neither heard nor read my speech; and that may be one reason why he does not understand the subject. The House will pardon me for saying it is the gentleman's misfortune. If he had read my speech, he would not, I am sure, have indulged in the remarks he made. Mr. P.

said, of one thing, however, he was certain; the only way the gentleman could refute the arguments would be, by voting against the measure if ever it shall come before him.

But to return to the immediate subject before us, Mr. P. said he considered the Government pledged to take the most liberal steps to settle and sell the public lands. In 1780, the old Congress, when they invited the States to surrender their wild lands, made a sacred pledge that these lands should be settled and sold, and formed into distinct republican States, having the same rights of sovereignty, freedom, and independence, as the original States. Shall we not redeem this pledge? How can it be redeemed, but by having these lands surveyed? How can you have these lands sold and settled, without bringing the price within the means of the great body of purchasers? Sir, said Mr. P., if no amelioration is intended to be extended to us, we cannot, surely, bear a more rigid system. Let us have the usual appropriation for surveying, and adjust other matters in relation to these lands hereafter.

Mr. STRONG regretted that so much debate had taken place on the proposed amendment. He said he was in favor of going on with the surveys, and believed the usual appropriations for the purpose averaged about \$50,000. He wanted to know, however, what had become of the \$84,000, of which he had before spoken? Was it all expended last year for surveys? Was the department now in debt? His desire was to get at the facts. Had \$84,000 been expended last year for surveys, and was the department in debt \$80,000 more? If such was the fact, he wanted to know the reasons for so great an expenditure for the purpose. He was willing to give fifty or sixty thousand dollars a year for surveys, but he saw no necessity for granting a hundred or a hundred and fifty thousand dollars a year to carry them on. He was desirous that the department should be out of debt, and then let the surveys go on as fast as they were necessary.

Mr. VERPLANCK said his colleague would find an answer to his inquiries, by turning to the report of the Commissioner of the General Land Office, appended to the message of the President at the commencement of the present session, (from which he read an extract.) He said further, that the present appropriation would cover all arrearages.

Mr. VINTON said it was not his intention, after what he had said, to enter further into the debate; but the remarks that had been made, applicable, not to the question, but to himself personally, and to the State of Ohio, left no alternative but to vindicate himself and the State from which he came. When on the floor before, he had stated certain facts, and deduced from them what he thought to be fair arguments and inferences. No gentleman had disproved the facts, or met the argument, or refuted the inferences. But an attempt had been made to create a prejudice in the House against those arguments, unworthy the place and of those who have resorted to it. On every side he had been assailed by imputations directed at him personally and at his State.

The gentleman from Illinois had thrown out the unfounded insinuation that he was a land speculator, and had fitted his argument to his own interest; while the gentleman from Kentucky, who was followed up by the gentleman from Missouri, had thought proper to open an attack upon the State of Ohio, through him, by asserting that Ohio had been the favored State of the West, and when she had obtained all her ends, she was actuated by a desire to oppress and keep down the other new States. He would say to those gentlemen, one and all, that to answer an argument was one thing, and to fly away from it into insinuation was another. It was an artifice to escape from an argument, which no gentleman who had a proper self-respect would hazard in the face of an intelligent as-

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*Salary of the Minister to Russia.*

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sembly. The gentleman from Missouri, in particular, had given himself great indulgence in insinuations against the State of Ohio. He had called on her delegation to do as they had been done by, and commented very much at large upon the favors which Ohio had received from Congress. He said that vast sums of money had been paid for surveying the lands in Ohio; that now they were all surveyed, she was anxious to arrest the surveys in Missouri, at the same time taxing Ohio with ingratitude and other sinister motives. Sir, if the gentleman from Missouri is desirous that his State should be treated, in respect to the public lands, as the State of Ohio has been, for himself he would ask and desire no more than that the gentleman from Missouri would, without insinuation, abide the application of the rule which he seems to be so anxious to get the benefit of. He wants the public lands surveyed in Missouri with the same rapidity with which that operation was carried on in Ohio. The surveys, sir, were commenced in Ohio in 1785, and were not completed in that State until after the year 1820, a period of more than thirty-five years. Now, sir, apply the rule of favored Ohio to Missouri, and the surveys will not be completed there these twenty years to come: thus much for that part of the insinuation that Ohio is unwilling to do for others that which has been done for her.

But, again, the gentleman says vast sums have been expended for surveys in Ohio, and now she refuses a similar favor to Missouri. During these thirty-five years, a little more than fourteen millions of acres were surveyed in Ohio, being the whole amount of public land in that State. In the course of some seven or eight years prior to 1825, about twenty-seven millions had been surveyed in Missouri, being an expenditure of nearly twice as much in Missouri as the whole amount of all the surveys made in Ohio, and, too, in less than one-fourth part of the time. Let the gentleman have the benefit of this example of favored Ohio, and the surveys in Missouri would stop for the present where they now are. Ohio has paid into the public treasury near twenty millions of dollars for land, while the receipts from Missouri have not gone much, if any, beyond a million and a half. Let Missouri follow this example, if the gentleman is really desirous to copy from Ohio, and then come and claim the grants and favors that have been bestowed on Ohio.

Mr. V. said he protested against the right of any gentleman here to arraign the motives of Ohio. Is Ohio to be put under the ban of her neighbors? Is she not a part of this Union? Has she not interests which it is the duty of this House to protect in common with her sister States? Have not her representatives a right to be heard on this floor, and to mingle in debate in questions like the present, in which she has more at stake, and a deeper interest, than any State in the Union? These, sir, are rights which her representatives on this floor will neither surrender nor cease to exercise, while they are faithful to her or true to themselves.

Mr. POLK said he did not intend unnecessarily to protract this unexpected discussion. His principal object was to call back the attention of the House to the real question before it. The chairman of the Committee of Ways and Means had informed us that this was the usual and ordinary annual appropriation for this object; that it was below the average of appropriations for the survey of the public lands, for the last half dozen years or more; that it was much below the appropriations for the same object, between the years 1815 and 1821. To refuse it, would be suddenly to change what has, for a great series of years, been understood to be the settled policy of the Government in regard to its public domain. Were we now prepared to discuss or to decide that question? He trusted, upon this annual appropriation bill for the support of Government, we should not get into a discussion about the expediency of changing our past policy. If the

amendment of the gentleman from Virginia prevailed, more than half of it would be exhausted in paying arrearages for surveys made during the last year, and the sum remaining would be greatly less than the usual sum, and would be wholly inadequate to defray the expense of surveying that portion of the public lands which it might be the interest of the Government to survey, and bring into market the present year. The gentleman from New York had admonished us that we should have an eye to economy. He believed that he regarded economy in his votes in that House, as much as the gentleman from New York, or any other; but he denied that it was economy to postpone the surveys of the public lands. When once surveyed, the work had never to be done again. The expense of surveying them had to be incurred before they could be brought into market; and he thought it true economy to place them in a condition to be sold as speedily as possible, that the Government might realize the price of them. If the object of reducing the appropriation was to retard their sale, and thereby put a check to the emigration to the West, and prevent their speedy settlement, he trusted that we would not be compelled to discuss a question, so radically changing our policy, upon an appropriation bill. If economy was the object, there was the same reason for reducing the appropriation last year, or ten years ago, that there was now. He trusted that the House would take the question without further debate.

The question was now loudly demanded; and Mr. CLAY called for the yeas and nays; but the House refused to order them.

Mr. STORRS, of New York, asked what had been the average sum appropriated for surveys in past years?

Mr. VERPLANCK replied, that it had varied from seventy to one hundred and fifty or two hundred thousand dollars. The Committee of Ways and Means, after due examination, had fixed it at from ninety to one hundred thousand dollars. Going back to the year 1815, it would be found to be something more.

After a few words from Mr. INGERSOLL, in answer to the inquiry of Mr. STORRS, the question was put on agreeing to the amendment submitted by Mr. McCOR, and decided in the negative—yeas 46, nays not counted.

The question then recurred on the amendment proposed in Committee of the Whole, and was determined in the affirmative, without a division.

#### SALARY OF THE MINISTER TO RUSSIA.

The question being then about to be put on the engrossment of the bill,

Mr. STANBURY moved to strike out the appropriation for the salary of a minister to Russia for the present year. Mr. S. remarked, that the President had informed the House that the United States were not represented at the court of Russia, nor was it probable, Mr. S. said, that they soon would be. Under such circumstances, an appropriation certainly was not necessary, and he hoped it would be stricken out of the bill. He called for the yeas and nays on his motion; when,

On motion of Mr. CARSON, the House adjourned.

FROM THE NATIONAL INTELLIGENCER OF JANUARY 22.

*Messrs. Gales and Seaton:* In your report in this morning's paper of the debate on the 12th instant, concerning the appropriation for surveying the public lands, Mr. WICKLIFFE makes me urge the following objection against the appropriation: That "the United States, by her land system, by reduction of the price of public lands, holds out inducements to the citizens of the older States to emigrate, and purchase lands for themselves; thereby extending our settlements beyond the limits which a true regard to the interest of the Government and of individual landholders will justify." Having a seat at a distance from that occupied by Mr. WICKLIFFE, and hearing him but

JAN. 13, 1831.] *Report on Manufactures.—Duty on Sugar.—Mileage of Members.—Minister to Russia.* [H. OF R.]

imperfectly, this statement by him of the argument he supposed I had used, wholly escaped my notice, or I should have set him right at the time. I presume the same circumstance occasioned his misapprehension of my remarks. I did not say what is imputed to me, nor any thing like it; and of course all that part of his speech which is intended to refute the argument he supposed me to have made, is misapplied. I never, upon the floor, or elsewhere, objected to the citizens of the old States emigrating to the new; nor did I, in that speech, say any thing about a reduction of the price of public lands. It had nothing to do with the subject under discussion. My objection was to surveying and bringing more land into market than there is a demand for. The price of public land being fixed by law at \$1 25 per acre, the purchaser will pay that price, whether one million or one hundred millions are surveyed and brought into market.

As to the great question of reducing the price of public lands, I have submitted the result of my opinions respecting it, in the shape of an amendment to the graduation bill, and when that bill is called up, it will be time enough for me to express my views on that subject.

Yours, with great respect,

SAMUEL F. VINTON.

January 20, 1831.

THURSDAY, JANUARY 13.

#### REPORT ON MANUFACTURES.

Mr. MALLARY, from the Committee on Manufactures, to which was referred so much of the President's message as relates to the tariff of duties on imports, and so much thereof as respects manufactures, made a report, (for which see Appendix.)

The report was laid on the table, and 6,000 copies ordered to be printed.

Mr. MONELL, from the same committee, submitted a counter report of the minority of the committee, and 6,000 copies of that were also ordered to be printed.

#### REDUCTION OF THE DUTY ON SUGAR.

The resolution of Mr. HAYNES, on the subject of the proposed reduction of the duties on brown sugar, was then taken up.

Mr. WHITE, of Louisiana, after a few remarks, moved its postponement until Monday week, in order to allow time for the reception of certain documents which he wished to obtain on the subject.

Mr. HAYNES opposed the postponement of the question.

Mr. TUCKER said that he saw no necessity for deferring the consideration of the measure. For his own part, he could not perceive the object of the proposed postponement, nor could he imagine what beneficial results could be produced by it. What, said he, is the purport of this resolution? Does it commit the House in any manner? Does it involve us in a pledge to abandon or to pursue any line of policy in this matter? Does it impose on us the task of diminishing or continuing the present duty on sugar? No. It is simply a motion of inquiry on the part of the committee; and when that committee shall have investigated the subject, and reported upon it, then it will be the proper time for the House to enter upon a discussion of its merits. At present it surely is not in order to do so. When the proper time arrives, I, for one, shall have no objection to go into the whole question, and to take into consideration all the documents or evidence of any other kind, which may have a relation to the subject.

Mr. RAMSEY said, if the proposed motion prevailed, he should move that the resolution take another course; that it be referred to the Committee on Agriculture.

The SPEAKER said the question was now upon the postponement of the resolution.

Mr. CAMBRELENG expressed his hope that the motion for postponement would prevail. The subject of the resolution was one of the first importance to the country, and it was desirable to obtain every information possible before acting upon it. The Secretary of the Treasury would be enabled to furnish much information concerning it, by next week; and with the aid of that, the question would be more fully investigated than it could be now.

The further consideration of the resolution was finally postponed till Monday next.

#### MILEAGE OF MEMBERS.

The proposed instructions to the Committee on Public Expenditures, yesterday submitted by Messrs. CHILTON and HALL, were taken up, and debated by those gentlemen till the time allotted for the consideration of resolutions had expired.

#### MINISTER TO RUSSIA.

The House then resumed the consideration of the general appropriation bill: the question under consideration being the motion of Mr. STANBERRY to strike out of the bill the appropriation for the salary of the minister to Russia.

Mr. CARSON said he heard with surprise the motion made yesterday by the gentleman from Ohio; and it was with still more surprise he had heard the reason which the gentleman assigned for his motion; which was, that the House had been informed by the message of the President, that we had no minister at the court of Russia. The gentleman had mistaken the Executive message—he had mistaken the information which it conveyed to the House; and if the motion originated in that mistake, it fell to the ground. When a motion is submitted by a member, said Mr. C., courtesy requires that we suppose it to be prompted by a high sense of duty to this House, or to the country. It is for those who hear it to judge if it have any other motive. If any other design gave rise to the present motion—if it was meant as a covert blow at the Executive, it was a feeble one—the arm that struck it was too nerveless to reach its object. Mr. C. here read the following passage from the President's message:

"Our relations with Russia are of the most stable character. Respect for that empire, and confidence in its friendship towards the United States, have been so long entertained on our part, and so carefully cherished by the present Emperor and his illustrious predecessor, as to have become incorporated with the public sentiment of the United States. No means will be left unemployed on my part to promote these salutary feelings, and those improvements of which the commercial intercourse between the two countries is susceptible, and which have derived increased importance from our treaty with the Sublime Porte.

"I sincerely regret to inform you that our minister lately commissioned to that court, on whose distinguished talents and great experience in public affairs I place great reliance, has been compelled by extreme indisposition to exercise a privilege which, in consideration of the extent to which his constitution had been impaired in the public service, was committed to his discretion, of leaving temporarily his post for the advantage of a more genial climate.

"If, as it is to be hoped, the improvement of his health should be such as to justify him in doing so, he will repair to St. Petersburg, and resume the discharge of his official duties. I have received the most satisfactory assurance that, in the mean time, the public interests in that quarter will be preserved from prejudice, by the intercourse which he will continue, through the secretary of legation, with the Russian cabinet."

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Now, said Mr. C., does this justify the motion, and, as a measure of policy, would it be right to strike out the appropriation? What inference could be drawn from our refusing the appropriation, but that we were about to suspend our intercourse, and all amicable relations, with the court of Russia? Sir, General Jackson and the administration need no support from me. The administration speaks for itself, and can support itself.

Mr. STANBERRY rose, and replied that the motion was dictated by those principles which brought General Jackson into office. During the preceding administration, great clamor was heard about the profligate expenditure of the public money, and about constructive journeys—and a change of administration was urged for the purpose of correcting these abuses. But Mr. S. saw no difference between paying an officer for a constructive residence and for a constructive journey. The House had just heard read, that the minister sent to Russia does not reside there; we have all seen him here—we know him, and know that he cannot reside there—if he receive the public money as minister to Russia, without residing there, he will be paid for a constructive residence. We know, as far as we know any thing about him, that he resides in England, or in France—we know, at any rate, that he does not reside at his post in Russia, and have reason to believe that he will not reside there. Is it right to pay for duties thus performed? Might he not as well reside at home, and still be considered minister to Russia, as to reside in England or France, in that capacity? Mr. S. said that, in making the motion, he had aimed no covert blow at the administration—he had made the motion in pursuance of what he deemed his duty to the public. In doing so, he was acting as the individual in question would himself have acted, under similar circumstances, were he now a member of this House. If we are to pay that individual for the public services which it is said he has performed, let us do so directly, not indirectly—not pay him for those services, by giving him a salary for an office which he fills but in name. These principles I learned, said Mr. S., from that gentleman himself, in here listening to him with delight, while denouncing the abuses of other administrations in misapplying the public money.

Mr. ARCHER said, that when at the moment of the adjournment of the House last evening, as he understood, the motion had been submitted, he was not in his place, to take the notice of it which was due from him, in the relation in which he was placed to the discussion of topics of this character here. He had but a few words to offer in resistance of it now. It proposed to take from the appropriation the provision for the mission to Russia. If this were done, not the professed object only, the recall of the present minister to that court, but an effect much beyond it would be produced—the interdiction of any mission there at all. If there was to be no appropriation, no minister could be maintained—one more acceptable no more than the present. The operation then of the motion, if it could succeed, would be to suspend diplomatic relations with that Power—the greatest in the world—the Power with which our relations of amity had been the least interrupted, and the closest—to which, in great and vital collisions which might await us, we must look, if any where, for consensaneous policy and effective support. In this view of the subject, he should submit the motion to the decision of the House.

There were purposes, however, Mr. A. said, covered by the motion, which would induce him to trouble the House with a few observations. The gentleman aimed at by the motion, was from his own State—distinguished by a large share of its esteem; and some degree of sensibility might be supposed to be awakened by the attacks upon him, and on the Executive for his appointment, circulated very extensively, and now disclosing themselves here.

Exception had been taken to the appointment. With what propriety? The House might exert a restraining judgment, through the incidental operation of its power to deny appropriations, on the institution of missions. But in relation to the persons by whom they were to be filled, or the conduct of the incumbents in their discharge, it was not the province of the House to exercise judgment and discretion, but of the Executive. We intruded on that discretion, if we made any supposed conduct of the incumbents, as we did upon decency, if we made newspaper fabrications the ground of our proceeding on such subjects here. But where was the ground for imputation in any view in the present instance? As regarded the nomination, for which the Executive had been arraigned with censure so widely diffused and unsparing, the person receiving it—who was he? How many filled so large a space of reputation? Who was there remaining on the public theatre, who had filled so long and unbroken a space of public service—a career of active, and sedulous, and brilliant exertion, extending beyond the period of thirty years? His talents—where was any to be found superior, ripened in this long period of service, to the fullness, yet not beyond it, of the most fruitful maturity? His political attainments, they were not inferior to his talents. This was the nomination which had brought vehement vituperation on the Executive, as an extravagant abuse of its discretion of appointments.

But consider the matter in another view. A tried public servant, who, in a most active career of thirty years, has never sought official appointment, (as he did not this, which he has now received,) nor other reward, than the favor of his immediate constituents, and public esteem, retires, with health in some degree impaired, but his faculties and capacity of usefulness unbroken. Is it matter of just imputation on an Executive, which his exertions contributed to bring into the public service—representing a great political division in the nation of which he has been an eminent ornament—wholly unsolicited—when he had left the situation which might bring the motive of this proceeding into question—that it has been desirous to extend to a public servant, so circumstanced, an acknowledgment of merit—a mark of regard—a recall to renewed exertion of his abilities? Had not, Mr. A. would not say the individual, but the country, a right to expect this?

The complaint disclosed by the present motion, however, was not directly to the appointment of Mr. Randolph, but his absence at the present moment from the scene of his duties. The first suggestion in the party vituperation which had prevailed, was—that he had assumed this privilege of absenting himself, unpermitted. This suggestion had been repelled by the message of the President, which had been read by the gentleman from North Carolina, [Mr. CARSON.] The exercise of a discretion in this respect had been accorded to the minister. On what grounds? His health, though better at the time of his acceptance of this mission, than for a considerable period, had been impaired. With a feeble constitution, and such a state of health, he distrusted the extreme rigor of the climate of Russia. Permission had, in this view, been accorded to him, in the event of his health failing, to remove to a more favorable climate. In the actual occurrence of the contingency, he had availed himself of the permission, with the purpose of returning to his situation with the removal of the cause of his departure.

It had been conceived, Mr. A. was aware, in not an entire consistency with the present charge of Mr. Randolph's undue absence from this sphere of his duties, that he had, in truth, no duties to discharge, and that it was for this reason that the appointment had been conferred on him. Mr. A. could assure the House, if they would accept his voucher for the fact, that this conception was founded in mistake. Our present mission to St. Peters-

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burg was charged with duties of no unimportant character. It was due, however, to candor to say, that, however it was desirable to proceed in every business with despatch, the affairs were not of a nature to suffer detriment from a transient delay of prosecution, such as might be expected to be constituted by the present absence of the minister.

An erroneous impression, Mr. A. believed, had been taken up, that the departure of Mr. Randolph from St. Petersburg had given occasion of dissatisfaction to that court. Mr. A. had seen the correspondence ensuing the announcement to the Russian Government of his intention to be temporarily absent, and its grounds. The announcement had been received in the best temper, and responded to in a spirit of the utmost courtesy and politeness. But, whatever might be the character of the absence of the minister at St. Petersburg from his station, it furnished no colorable support, Mr. A. maintained, to the present motion. It did not belong to the House to supervise, in this mode, the demeanor of our diplomatic functionaries. This was the uncontested function of the Executive. Were the intentions on this function warranted, could any man conceive the present a proper case for it, and the ground alleged adequate? And, in the worst view, were we to suspend diplomatic relations with Russia, because we were not entirely satisfied with the conduct of the functionary who had been deputed there? For that such would be the effect of the denial of the entire appropriation, no one could contest. If we did not like the minister the Executive had selected, were we therefore to determine we would have no minister, which we could not have if we made no provision for the payment of a minister? This was the simple question to be decided in the vote on the motion. It was a false inference, that, because we had competence to determine the continuance of a mission, we were invested with the same competence to determine the propriety of continuing a minister; or if we were invested with it, that we should exercise such a competence on grounds that were inadequate, and in a form that would derogate from the dignity of the House.

These, Mr. A. said, were the explanatory observations he had to offer on the motion, and the grounds of it. The House would do him the justice to acknowledge that he had been guilty of no deviation from the proper tone of explanation, nor indulged, in any degree, that spirit of acrimony which had come to pervade all political discussions among us, and had especially infused its venom into the subject of this. He should stand without excuse, if he exhibited participation in a spirit which, from whatever source it sprang, or to whatever objects it was directed, he was one of the loudest to condemn.

Mr. MALJARY stated that there were some great considerations connected with this question, which demanded notice. He was not disposed to speak of the gentleman who holds the appointment of minister to Russia, as a gentleman from Virginia. He thought there were higher considerations to be viewed. We well knew the influence which the Autocrat exercises. He puts his foot on the neck of nine-tenths of the physical power of Europe: his thumb is on Kamschatka, his little finger touches the Aleutian islands; it is well known, also, that he feels, or pretends to feel, great friendship for the United States. It is our duty to cultivate this feeling. We know our situation is delicate, as regards the European Powers. What is to be done? How are we to improve our condition? Not by confiding our affairs to persons who have no higher qualifications than that they are gentlemen of Virginia. We want somebody at the court of Russia to hold intercourse with the Autocrat—to meet him face to face, not on bended knee—to be there on the spot, and honestly to communicate our honest wishes. We do not wish a minister who is to be continually an absentee. He intended

no disrespectful reflection on the gentleman, but we want a man who can talk to the Autocrat, in reference to the mutual interests of the two countries. Such a one do we want at the court of Russia. The gentleman from Virginia tells us that Mr. Randolph has done great services to the country, that he is distinguished for his talents, and so forth. Well, let that pass. But it was not merely because a person had figured well on the floor of Congress, that he is to be selected as a minister. We want a man who can do the business of the country—who can present himself before the Emperor, and tell him what we deem to be the suitable relations between us. Is it merely because Mr. Randolph has, in a certain fashion, distinguished himself on the floor of Congress, that he has been selected as a minister? He [Mr. M.] believed, that he understood the character of Mr. Randolph as well as any man, and valued his talents about as high as any one; but here is a plain matter of business; and we want a man who will be on the spot, and stand by our interests. He understood that the gentleman was in delicate health, and could not stand the rough winter of a Muscovite climate. Well, we want some one who can; and not a minister who is obliged to retreat from the inclemency of a Russian atmosphere, to the more congenial climate of France, and to leave the interests which have been entrusted to him in the hands of a secretary. Something to this effect had been stated to us in the newspapers, as well as in the message. Mr. M. then referred to the clamor which was raised when Mr. Rufus King was sent to England by the late administration, because his state of health was such as to render it impossible for him to remain; yet we are now called on to vote a salary for a minister who has merely made his bow at court, and staid ten days, and then left the business of his mission to a secretary; and we are told that the purposes of his mission were successfully fulfilled while he remained there! If all which is required to be done, can be as well done by the secretary as by the minister, let the minister remain in the United States, in the city of Washington, and let him do all by correspondence with the secretary at St. Petersburg. Let the plenipo stay here, and communicate with his secretary there. No doubt, if the Emperor can have his objects accomplished, he will be satisfied with the minister we have sent him; but we want one who will remain on the spot. If (he repeated) a secretary be sufficient to transact the business, let the plenipotentiary remain at home, and the secretary reside at the court of Russia.

Mr. BURGESS said, the present is, I believe, no unusual discussion. In the short term of my service in this hall, I have witnessed sitting after sitting of a Committee of the Whole House on the state of the Union, where the quantum of salary, compared with the service of foreign ministers, was the subject of most stirring debate. When has the competency of this House to move such debate been questioned? Never, until the present sitting of this committee. If I am mistaken, I ask the chairman of the Committee on Foreign Relations to tell me when that question was made by the friends of the last administration. The question is put to him, because of his proximity to the Executive Department, and because, if he will not give it a candid answer, such answer can be expected from no gentleman in this hall.

What call, then, can, by any usage, be at this time made on this branch of the Government, to throw itself at the very foot of Executive subserviency? Do the people expect this from us? They have placed the national funds at our control, but with a full confidence in our fidelity and diligence, and under no fear that we should unlock the treasury, unless paramount public interest call upon us to turn the key. We cannot do this merely because required to do it by cabinet ministers, or by the Executive under their advisement. This House has ever claimed and exercised the right to deliberate, to debate, and,



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under a sound discretion of its own, to decide and determine all claims for appropriation, by whomsoever, or for whatsoever purpose they may have been made. If missions of minor importance were, in years past, questioned, under the vigilance of a spirit of retrenchment, without a fellow in former times, may we not now—although that spirit has been touched, and put to sleep by the caduceus of the State Department—may we not call to our aid so much of the sober watchfulness of the best days of our republic as may enable us, with due diligence, to examine such a question of appropriation as this item of this bill has brought before us? It relates to no mission to an infant nation, or some inconsiderable State, but to our long established legation to a court among the most illustrious of Europe, and involving relations pre-eminently interesting to our country. Innovations relative to this distinguished mission do, above many others, place our national interests in jeopardy. Our relations with Russia have hitherto been cherished and sustained by a minister plenipotentiary residing near that court—at that court, in the royal city of St. Petersburg, and within the political and social circle of the Emperor himself, the high dignitaries of his Government, and the diplomatic envoys of all the nations of Europe, and many of those of Asia.

What, then, is the question before the committee, under this item of appropriation? The gentleman from Ohio [Mr. STANBURY] has moved to strike from the bill the nine thousand dollars proposed to be appropriated for payment of the current year's salary to the gentleman said to have been despatched as minister to Russia. He has ably, though briefly, sustained his motion. I trust the committee will indulge me in a few remarks on the same side of the question.

The item itself bears no mark distinguishing it from others of the same kind, or giving us any warrant for rejecting this while those are allowed. We must look to other documents for information concerning this mission, and our obligations to furnish the money for supporting this minister at the court of St. Petersburg. The paper which I now take from the desk before me, contains that information. It purports to be the annual message from the President of the United States to Congress at the present session. It certainly bears his signature, and was sent to this House by that high dignitary. Notwithstanding these facts, the document must be received and considered entirely as the production of cabinet ministers. No literary gentleman in this hall—I mean no member of this House—who reads and examines this communication, made to us so much at length, could, I think, say, without hazard of their reputation, that he believes one sentence of it was composed by the distinguished gentleman whose name is placed at the end of it. This, sir, is not said for any purpose of derogation from the eminent official character of our First Magistrate, but for a very different—a much more important purpose. Are gentlemen aware of the extent of our importation of European politics? Have we not brought home, and put into use, the high tory maxim of their monarchies, that the King can do no wrong? Was there ever a time in our country when the friends of any administration, other than the present, believed and practised this article of political faith with more unscrupulous devotion? The cabinet ministers of our Executive have taken artful counsel from this fact. As European ministers, being answerable with their heads for what the King, their master, may, from the throne, communicate to his Lords and Commons, will not suffer any speech, but of their own contriving, to be thus communicated; so, the adroit ministers of our cabinet, taking shelter under the Executive subserviency of the times, have not only put upon the nation this message, but the President, a man who, if he moved at all, always marched straightforward to his object, they have betrayed into the crooked counsels which may, by diligent examination, be

found in this message, sent to Congress by them, while they lie sheltered under the imposing name of the first dignitary of the nation. If the King can do no wrong, thank God ministers may, even in these times, be made accountable for the counsels which they have given him. "The right divine in man" to rule, "the enormous faith of many made for one," comprehends in its creed no permanent provision for any crafty sycophant to skulk and screen himself behind the throne, and play the little tyrant with security.

That part of this message, from which we learn the character of this mission to Russia, is all of it which now it concerns us to examine. Our foreign relations are a branch of the Department of State; and this mission was contrived, and the account of it contained in the message, has been given to us by the Secretary of that Department. The gentleman from North Carolina [Mr. CARSON] has read this account for one purpose—suffer me to read it for another.

"Our relations with Russia are of the most stable character. Respect for that empire, and confidence in its friendship towards the United States, have been so long entertained on our part, and so carefully cherished by the present Emperor and his illustrious predecessor, as to have become incorporated with the public sentiment of the United States."

"I sincerely regret to inform you that our minister lately commissioned to that court, on whose distinguished talents and great experience in public affairs I place great reliance, has been compelled by extreme indisposition to exercise a privilege which, in consideration of the extent to which his constitution had been impaired in the public service, was committed to his discretion, of leaving temporarily his post for the advantage of a more genial climate."

"I have received the most satisfactory assurance that, in the mean time, the public interests in that quarter will be preserved from prejudice, by the intercourse which he will continue, through the secretary of legation, with the Russian cabinet."

Am I not correct in saying that this fabric was wrought in the Department of State? Who but Mr. Secretary Van Buren would have devised such a mission, or selected such a man to fill it, or caused such a printed paper to be sent to this House? We are told by it that our long established legation to Russia has been totally changed; and that, in place of a permanently resident minister at that court, regardless of the public service, a mission has been invented to suit the talents, the health, habits, and disposition of the distinguished individual for whom it was designed! By the very terms of this mission, this individual is required to repair to Russia, but is authorized to leave that court, and that empire, whenever his health (and of that he alone is the judge) may require it. Who but the Machiavelian politician at the head of the State Department would have advised the President to such a mission, or dared to place on a document, prepared to be sent to this House, such a statement of its commencement, progress, and present condition? In what part of the constitution, or the laws of the United States, or of the usages of this Government, does he find any thing in support of the measure? It will not be hazarding very much to say that the House was never before this time called upon to pay such a salary for such services.

This distinguished minister to Russia is John Randolph. How does he understand the terms on which he agreed to embark on this mission? The course of conduct pursued by him since his departure may give us some knowledge on this point. We are left in nearly utter darkness by the Department of State concerning all the movements of this minister: for the message merely tells us that he has already taken benefit under the sincere clause in his charter of legation. He has left the court of our illustri-

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ous friend the Autocrat of all the Russias; but when, or for what other region? Here the Secretary is cautiously silent. The chairman of the Committee on Foreign Relations has been equally so. Can any gentleman of this committee either indoctrinate us into this great mystery of State, or give us the light of a single fact concerning the voyages and travels of this minister of ours, and let us know whether he is now moving or stationary? Where is John Randolph? Where is our ambassador, for whose public services Mr. Van Buren is calling upon us to provide a salary? We are told that he is not where he was sent; and that he had permission to go thence when and whither he might choose; but whether he is, in pursuit of health, now basking in the sunshine of Naples, or, for a like purpose, traversing "the fog-wrapt island of Britain," we are left to learn from the same authentic documents from which the chairman of the Committee on Foreign Relations seems to have taken advice—rumor and the public papers. These have "talked of his whereabouts;" and, though, without giving daily bulletins of his health, habits, or motions; yet their right to speak, and our right to hear, cannot be questioned, when those who know and could tell us the whole truth, persevere in a safe and cautious silence.

If we are left by the Secretary without knowledge of his movements or localities, we are equally uninstructed by him concerning the health of this ambassador. We are merely told that he has already availed himself of his right, by the terms of his commission, to abandon the public service. In what state of health was he then, is he now, or probably will he be, at any future time? For, legislating on this subject, in what a luminous condition this prescient Secretary has placed this House! We have an equally distinct view of the past, the present, and the future. Does any gentleman of this committee possess the power to tell us whether John Randolph might now, or ever can be required, by the terms of his legation, to return to the court of Russia? Is not this salary intended to be given to him for the distinguished services already rendered at that court? If his health continue to require it, he has, we are told, the right to choose his place of residence. What are, what have been, his own opinions, concerning that health? You have all seen him walk into this House, and out of it, and must know his own opinions concerning his own health. We have often heard him pronounce his chronic complaint "a churchyard cough." In winter, "he should not live over corn plantings;" in seed time, "he should die before harvest." He has for years been travelling from New York to Liverpool, from England to France, from America to Europe, and from Europe to America, in pursuit of health. Has he not, from all this, learned that neither time nor travel can bring back to age the bloom of youth, nor to infirmity the vigor of health? Were he, at this moment, to walk into this hall, wrapped from the floor to the eyes in flannel and fearnought, what would he tell you, sir, concerning his health? What of his intended residence in Russia? No, sir, if he be the judge—(and who but he can be the judge of his own health?) he will never again return to the court of the Czar. We are, therefore, directed and required, by the Secretary of State, to appropriate this item of \$9,000, for the salary of a public minister, who has been in the public service, at the place of his destined residence, not much more than a like number of days. He arrived at St. Petersburg, was presented to the Emperor, made his bow, or genuflection, retired, and went to—England? France? Italy? or where? No mortal man, on this side the Atlantic, can inform us.

During this nine days' residence, what services did he render to the American people? The Secretary is satisfied; and we surely ought not to be anxious about this great affair. We are told it is a matter exclusively within the competency of the Executive; and, therefore, it is, I

presume, considered, that the representatives of the people have no other vocation but to vote the promised and required compensation. He certainly succeeded, even in that short time, in rendering himself very distinguished at the court of Russia; and, therefore, it may be said, in giving equal celebrity to his country. He certainly gave voice to every tongue of rumor in both hemispheres. His mission will hereafter be regarded as an era in our foreign relations; and the residence of Randolph at the court of Russia will long be talked of as a phenomenon in diplomacy. For this we must give him the 9,000 dollars demanded by the Secretary.

What could such a man do for his country in the character of a foreign minister? Just what he has done: which was very much like what each man in the nation of all parties, who knew him, must have expected he would do. Genius he certainly has; for he is original, and unlike all other men. If you please, he is eloquent; but if so, that eloquence is, like himself, *sui generis*. These have enabled him to perform what he has done; could they qualify him for the services of a great diplomatic minister? Do not these require sound judgment, deep, extensive, and regular thinking; laborious perseverance in business; and, above all, prudence, and vigilant circumspection? In his thirty years' public service, where are the monuments of his political wisdom, and labors of patriotism? They are all of a piece; of one uniform character, and this Russian residence will neither give the blush or the palm to any other public transaction of this remarkable man throughout his political life.

With a perfect knowledge of this man, the Secretary of State could not have contrived this legation, so different from all others, with any view to the public service. This man was sent out not to benefit the people abroad, but to relieve the administration at home. The crafty Secretary had witnessed the political movements of this eccentric man. He feared the comet might return again, and visit his political hemisphere. He had seen it blaze in perihelium—

"With fear of change perplexing men in power."

Was it not prudent to remove this star of malign influence to another sky? It has been done; and the nation must pay, not for a mission made for the advancement of their interests, but made to secure the political power of the Secretary.

We have been told that our relations with Russia are of high and important interest; and, therefore, we cannot dispense with this appropriation, because, if we refuse this salary, we shall defeat the mission. Should this mission, by which no public benefit was intended, and from which none can be hoped, be recalled, it may be replaced by one of better purpose, and efficient character. It is an obstruction in the "straightforward" path of our relations with Russia, and we are laboring to abate, or to remove it out of the way.

Our relations with that Government are truly important. That empire is perhaps the most numerous in population, and certainly the most extensive in territory, of any Power on the globe. No nation of the old world, otherwise than by colonies, approaches so near to us. This people is advancing in civilization, wealth, and power, beyond any example in its former history. In the last controversy of arms between Russia and the Ottoman empire, had not other Powers of Europe interposed a shielding hand, the moslem, after a dominion of more than four centuries in the fairest part of Europe, had been driven beyond the Bosphorus; and the Autocrat of Russia would have ascended the throne of Constantine. At all times, our relations with such a Power must be important to the American people. Are those relations taken care of now, as heretofore they have been, and as now especially they ought to be?

Yes, sir, I say as now they should be. For now Europe

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is convulsed, and agitated from the Mediterranean to the Baltic. The flame of war is but just repressed. Troops are called into the field, in almost every nation; and Russia, in a kind of winter campaign, has sent out 200,000 soldiers to her southwestern frontier, to look out on the old battle fields of Belgium and France. In this condition of Europe, do we not require an able, a diligent, a resident minister at Russia? Withhold this appropriation, abolish this sinecure legation, and this may be effected.

One other fact in the history of our diplomacy renders the residence of a skilful, faithful minister at that court, at this time, above all others, indispensable. We learn from the Department of State, through the same medium, this message, that a treaty of amity and commerce has been negotiated between the United States and the Sublime Porte. The Secretary, with great candor, told us what this Turk had agreed to do for the christian, but he, with great caution, concealed what the christian had agreed to do for the Turk. This gentleman is as well persuaded as the French monarch was, that "he who knows not how to dissemble, knows not how to rule." Rumor has run clean counter to Mr. Van Buren; for though she often tells more than the truth, she never tells less. What have we learned from this witness? Why truly that a secret article is contained in this treaty; and this fact was, I believe, published in the newspapers before we received the message. It is said—it is believed, that by this article the American people agree to furnish armed ships to the Sultan of Turkey, in his future wars with christian nations. Do you believe, sir, that our envoy had left Constantinople before the Russian minister at the port knew this fact? The very drogoman, by whom your Mr. Rhind talked with Reis Effendi, would, for half a plate full of piastres, have told the whole story to Count Orloff; and sworn he was doing good service to the prophet, by betraying one christian dog to another. Sir, has friendship for the Russian empire been so cherished by the present sovereign, and his illustrious predecessor, that it has become a sentiment of the American people? Is not this secret article a diplomatic fraud, not only on that friendship, but, which it quite as much concerns us to consider, upon that sovereign who has so generously cherished it? I say nothing now of what may happen if the Turk should again war upon the Greek; or how it may comport with the republican principles of the Secretary of State, when he shall call on this House to furnish ships to that despot, thereby aiding him in bringing that people again under his iron yoke. What shall we say to the Emperor of Russia? Who shall make our explanation, if we have any to make? It is probable that the news of this treaty, and perhaps a copy of it, reached the court of St. Petersburg shortly after our minister left that city. The shortness of his residence there; the suddenness of his departure; the intelligence of this secret article; the intended sojourn of that minister, perhaps in England—perhaps in France; the attitudes of the nations of Europe, all giving dreadful note of preparation for war, must have had some tendency to place our relations with Russia on a footing not the most firm and friendly. Does not sound policy—does not national good sense, call on the American people to have an able minister at that court, and that, too, right speedily? Have we one there now? Under the mission for which this appropriation is to be made, are we likely soon, or ever, I do not say to have such a man there, but to have there any minister at all?

In answer to all these anxious forebodings, we are told, that, in this absence of the minister, the secretary of legation takes very special and satisfactory care of our relations at the court of St. Petersburg. If this were not too ludicrous, it must be received as a mere mockery of the American people. When this paragraph came from under his pen, Mr. Secretary Van Buren must, if he had placed

his hand there, have felt something on his face different from the eternal smile. Who is this secretary of legation? The protege of the minister, John Randolph Clay—a lad of less, or certainly not more, than twenty-one years old; undistinguished by talents, education, or employment; without acquaintance with men, or things, or business; a youth to whom fame has not, nor have his friends, attributed any thing extraordinary, either in possession or promise; and with nothing but his surname to recommend to public attention. I would not, I cannot speak in derogation of this youth; and all I would say is, that he must be utterly unqualified for the public station where he is placed. The service requires men; the nation has able men—Herculean men. Why then hazard our interests, perhaps our peace, by placing the weight of empires on the slender shoulders of boyhood? Let us strike out this appropriation, that this sinecure, this state mission, may be avoided; that the minister may return to his "constituents," the Secretary to his studies; and that the President may send a legation to Russia fit for the public service.

As it will not be contended that this appropriation should be made, because the gentleman, who may take the benefit of it, is a native of Virginia, so may gentlemen be assured that these remarks have no sectional origin; and I utterly disclaim any and all adversary feeling to that distinguished commonwealth, her interests, and her citizens. I have spoken as one of the representatives of the American people; and as one coming from a part of our common country which has done and will do as much for the illustrious men of Virginia as any other part of this nation. This appropriation is opposed because it is intended to support a mission formed for purposes unconnected with the public interests, places our foreign relation in peril, and is without any justification in law, usage, or constitutional principle.

Mr. J. S. BARBOUR, of Virginia, said that he would briefly reply to the gentleman from Rhode Island, [Mr. BURGESS.]

Mr. B. said he felt the entire force of the duty to do so, and its obligations could not be lightly regarded. In a subject for grave legislation, involving considerations that deserved to be well weighed, and in the calmest deliberation, it might be hoped that faction and party would have paused in reflection. This hope was vain. The infusion of party malignity had already embittered and discolored the debate. Will gentlemen allow no moment of repose to the inflamed and angry passions of political warfare? Is discord to banish harmony from our councils, and consign to party all the duties that belong to, and are involved in, the name of country? The tendency and effect of these things cannot be mistaken or disguised. Obscure them as gentlemen may choose, the drift and intent of discussions like this cannot be mistaken. The gentleman from Rhode Island has kindled his sensibilities, and indulged in those malevolent epithets that cloud the debate, and surrender the judgment a victim to feeling. He asserts that Executive influence controls the action of the House, by declaring that subserviency to Executive will is far beyond all past extent in the history of this country. Sir, if this be the dominant vice of the age, it carries alongside of it a countervailing antidote. The present times are fruitful of unsparing hostility to the Executive. But, said Mr. B., the gentleman is entirely at fault. His assertion is a figment of the fancy, and has no foundation in reality.

If there be any thing at this time more remarkable than all other things, it is the utter absence of Executive influence over the deliberations of this House as well as the Senate. I think that I perceive and could trace the causes that produce this state of things; but it would be a profitless pursuit, even if covered with the fullest success. It is, however, a fact, as singular as it is true, that a President of the United States, holding in full and sure possession a larger share of popular affection than the most of

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his predecessors, finds that most of his prominent recommendations to Congress have been neglected. Invested as he is with the strongest evidences of popular regard, all his more prominent recommendations have perished by inertia or rejection. This may present a question between the constituent body and their agents, of which I mean to give no opinion. Those to whom the public weal has been entrusted, have, doubtless, acted upon their own views of right and wrong. But this fact alone repels the ill-founded insinuation of subserviency to Executive behests.

It has likewise been intimated from the same quarter, with a grace neither becoming nor decorous, that we are called on to vote a salary to the American minister at the court of St. Petersburg, because he is a Virginian. Now, sir, my worthy colleague, who sits before me, [Mr. Archer,] used no language, employed no expression, that force and ingenuity united could torture into such meaning. Vindication against such a charge is entirely unnecessary, as it regards the State or the ambassador in question. The character of that ancient commonwealth, as well as that of her distinguished son, constitute an impregnable fortress, that frowns on and defies the assault—a character that is not the fruit of a summer's day, but has been dearly earned, in an age crowded with events that are at the same time appalling, and sacred to the best and highest interests of humanity. When my colleague adverted to the genius and services of Mr. Randolph, he remarked that Virginia had illustrated the distinction of her partialities in that uncommon confidence which was reposed in his virtues and his talents. And this is all he said relating to Virginia. I will take leave, too, to say, that such confidence, so dearly earned, so fully possessed, and so merited, "is praise enough to fill the ambition of a common man;" ay, sir, of any man, be he whom he may. I pass, said Mr. B., from this insinuation to another, fraught with equal injustice. The member from Rhode Island more than intimates that the State in which I live was to be conciliated by this appointment. If, in this Union, or on this globe of earth, there be a State or empire beyond the reach of such vile seductions, it is the State on whom this tart reproach is cast. Virginia has her principles, perhaps peculiar, and these she prizes above the temptations and treasures of earth. For she believes that with the maintenance of these is inseparably wrapt up the happiness and the freedom of the community. In support of this class of principles, she claims to stand foremost in the field of contest; "and this is the head and front of her offending." I speak with justifiable confidence when I say, that, in these times, neither Virginia nor her citizens wished the honors of this Government. It is not true in any case that high offices were sought after or obtained by any of her sons through unworthy means.

It was said on a former but appropriate occasion, by Mr. Randolph, "that his feet had never been soiled by the dust of the anti-chambers." He had been the light and the ornament of this House and the Senate, in times when friends and foes guided the destinies of this country. He had never bent his knee where his heart owed no respect. We are arrogantly called on by the gentleman from Rhode Island to point to the monuments of past service that Mr. Randolph has left behind him. Sir, it was once said of a patriot, a soldier, and a statesman, whose deeds of renown are beyond the reach of praise or dispraise, that his monument was erected in the hearts of his countrymen. Profiting by this figure, I beg leave to say that Mr. Randolph has left with us one monument of his great services. It rests in the heart of the gentleman from Rhode Island. Rising out of it to full view in this debate, it is now seen sparkling in the glitter of his fancy, and now casting its malignant shadow over those services which justice and history have already consecrated to patriotism and to glory. Mr. Randolph's great exertions,

united with as gallant and devoted a band of patriots as ever combated oppression in the Senate, or withstood it in the field, overthrew that party to which the gentleman from Rhode Island belonged. In that great struggle between liberty and power, Mr. Randolph was true to the people. His matchless genius was exerted in favor of popular freedom—and this is his crime. His claims to public gratitude would be but a transcript of the records of the age in which he lived. No vituperation can sully his renown. History will record—justice will be done. His reputation will be cherished by the present generation of men, and it will pass to posterity. The gentleman has been pleased to notice the secretary to the Russian legation, and has applied to him some of those epithets he has always at command. It is enough, in reply, to say, that those to whom the constitution has confided the power and the duty to judge of his fitness and abilities, have no doubt discharged that office; and their decision, it is presumed, may be safely trusted. But, says the gentleman, he is "a boy, a beardless boy." That epithet implies an objection that is now out of time, for the Senate yesterday clothed him with the *toga virilis*, by confirming his nomination. But, after all, what reason can be assigned why this House, acting as a moral agent, and influenced by those considerations which have moral weight, what sound and valid reason, I repeat, can be assigned for withholding this salary? The President appointed the minister to Russia, and the Senate, as is known, confirmed the nomination, not only without the show of serious opposition, but with a promptitude that indicated no wish for opposition. The minister accepts the office, repairs to the theatre of its duties, and executes them. The frailty of his constitution rendering ill health possible, he asked and obtained permission, if overtaken by disease, to seek a more genial clime. It was conceded to him with perfect coherence to usage, propriety, and humanity. He had fulfilled his undertaking to the letter, fairly, fully, thoroughly; and I demand, will the Government meanly violate its contract, and refuse the payment of the salary?

The discussion of the foreign relations of the country have been obtruded into this debate. Matters of delicate and touching interest, still pending between this Government and others, have been drawn in, as if they were proper topics for discussion. Of such matters, said Mr. B., I claim to know nothing, except that their present introduction is unparliamentary, and discourteous to the organs charged with our foreign concerns. Whenever these subjects shall become proper topics of debate, my colleague, [Mr. Archer,] whose position in these affairs will then require and justify his speaking, will doubtless supply the just calls that may be made upon him.

I have thus far, Mr. Speaker, treated this question, in reply only to what has been urged on the other side. In this respect it is a subject important enough to engage your best deliberations. I beg leave now to address a few words in a different view of the question. If it be important in its personal and party aspect, that importance dwindles into insignificance when we regard it in reference to our constitutional powers. I mean in relation to the distribution of power among the several departments of the Government. It is here that it swells into vast magnitude, and demands the most mature reflection.

Upon a proper subject, and at an appropriate time, none can deny to this House the rightful power to interpose its will between the public interests and the march of folly and wickedness in a mad and faithless administration. Whenever, in such cases, Congress is called on to grant appropriations, I am not willing to concede that it possesses a mere instrumental agency, while all deliberative will is drawn to other departments. No, sir, no! But this is not the creation of a new mission. It is not a prospective matter. The thing is done, and beyond our control. The embassy itself is not objected to; the mission

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is acknowledged to be highly necessary. The appointing power, with the co-operation of all those guards and checks which the constitution for wise ends has put around it, have all concurred in approving the selection of the minister—and whilst you have the power, and the power only, to withhold the appropriation, I deny that you have any right to interpose at this time. I deny that your power rests in the moral stability of justice. There are sometimes obligations of a higher nature, resting on governments as well as individuals, than those which may be enforced by coercion—obligations which we cannot disregard, without a reckless contempt for our loftiest duties. If we follow the constitution, and respect the allotments of power, it seems to me impossible that the mind of man can bring to its aid a plausible pretext for interposing the negative of this House upon a subject entrusted to others. We have no right to resist their will, when fairly moving in their sphere of conceded power. Alarming cases may sometimes arise, of such magnitude or atrocity, as to require it. Such cases, when they do occur, set aside all law and all obligation; they furnish a law to themselves, which the public safety may constrain us to follow.

Mr. WAYNE observed, that when the gentleman from Ohio made the motion to strike from the bill under consideration the appropriation for the salary of the minister to Russia, he had accompanied it with two declarations, neither of which was the fact, though both had the appearance of being so. The moral apprehension of the gentleman will readily distinguish between them, and also suggest to him how far the difference in this instance had been accidental. His declarations were, that the President had told us the United States was not represented at the court of Russia, and that it was not probable we soon would be; the last being an assertion of his own. These were the reasons he had given to sustain his motion, and both he professes to have derived from the message. Sir, the President, after stating our amicable relations with Russia, and that no means will be left unemployed to promote them, and to improve the commercial intercourse between the two nations, sincerely regrets to inform us, that extreme indisposition had compelled the minister to leave, temporarily, his post, for a more genial climate, and that this was a privilege which had been committed to the minister's discretion, in consideration of the extent to which his constitution had been impaired in the public service. But the President also states, he had received the most satisfactory assurances that the public interests would not suffer in the minister's absence, as it was his intention to keep up an intercourse with the Russian cabinet, through the secretary of legation. So far, then, sir, from not being represented, we are informed that, notwithstanding disease had forced the minister to leave St. Petersburg for a time, he was, though under its pressure, not unmindful of his duty, of the particular interests which had been confided to him, and of the welfare of his country. How different is this statement from the naked declaration of the gentleman, which, without any explanation from him, implies an entire suspension of all negotiation during the minister's absence, conveys an intimation that the public interest was suffering, and the imputation that the appropriation was asked to pay for constructive and not for actual services. It may suit the gentleman's views to use his place here to make such insinuations for circulation out of the House; but when they are unwarranted by the only document which we have to give us information upon this subject, and upon which he makes his assertions, and that one written in so plain, unaffected, and candid a manner, that it cannot be mistaken, but by great carelessness, or a disposition to pervert it, he must bear the exposure of the difference between his declarations and the authority upon which he rests them, and not complain if his

motives should even be harshly suspected. Equally unfortunate is the gentleman's declaration, that it was not probable we would soon be represented at the Russian court, as it is the opposite conclusion to which a candid mind would come, from the language of the message. In such a case, nothing could be certainly said, or promised; but enough was said to show that the President had a definite hope that the minister would return in the spring to his post, with a full ability to give to his country the use of those talents and attainments by which he had become so much distinguished at home.

The motion is not, therefore, sustained by the facts of the case: we are forced to look beyond them for the cause which induced it; and it seems to have been intended to give an opportunity for an outpouring of party resentment, which has been the more violent and personal, from having no substantial cause of complaint upon which it would fasten its rancor. The gentleman from Rhode Island [Mr. BURGESS] has indulged in a wide range of observation, in no way connected with the subject, and by no means sanctioned by the remarks of the chairman of the Committee on Foreign Relations, to which he more than once referred as an example, to protect him in his irregular course. The House had understood the chairman to deprecate any reliance being placed upon newspaper conjectures and calumnies; but the gentleman had made them the basis of his argument, and his authority for facts—and, until he had done so, the real subject of debate had not been lost sight of. What connexion, sir, with his subject has the treaty with Turkey, or any one of its articles, about which we cannot know any thing until it shall be ratified, or its provisions shall be divulged, by a vote of the Senate, unless information concerning it has been got by a shameless violation of fidelity to the constitution? Did the gentleman reflect upon the impropriety in a member of Congress giving, in debate, currency and consequence to mere newspaper surmise, concerning our foreign relations, which, whether it shall turn out to be true or false, might be hurtful to our interests, by a premature disclosure, or an increased supposition of its correctness, and before it is known what attitude those who administer the Government have taken in relation to the subject of conjecture? Or does he think it allowable, in the warfare of party, to catch at every suggestion which malice or curiosity may make of those now in power, and to argue from them as probabilities? In such contentions, honor rejects the use of an untruth, as readily as honor and humanity would refuse to wield the poisoned weapon in war. Did the historical reading of the gentleman not remind him how often it has happened in negotiation, that an inadmissible article is permitted to be a part of a treaty by a minister not having full power to ratify it, in the expectation that its temporary admission will be productive of ultimate good? But, sir, we know nothing of that treaty; and I abstain from further notice of that part of the gentleman's speech, believing, whilst the treaty is under consideration in the Senate, conjectures of its contents, or any remarks concerning it, to be altogether unbecoming here. The gentleman, however, is as little justified for having made the qualifications and fitness of the minister to Russia a subject of inquiry and remark upon a motion to strike out the appropriation for his salary. When the right of appointment exists, and it is made and confirmed by the Senate, the fitness of the individual is conclusive upon this House, and a constitutional obligation is imposed upon it to co-operate in voting the supply to support the minister; and our only constitutional check upon the disbursement of it is a right of inquiry into its application. A call upon us to refuse the supply in anticipation of its misapplication is an indecency of assumption, which was unknown to the journals of our legislation until this motion was made. But why refuse the appropriation? The right



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of the President to extend to a minister the indulgence of temporary removal from his post, in anticipation of a hostile influence of climate upon his health, cannot be denied; for it does not differ in effect from such allowance after the ravages of climate have been felt, and the latter, though often done, has not been heretofore a subject of complaint or of reproach against any minister or any administration under which it has happened. The same principle produced the law which gives to a member of Congress his pay, if, after having begun his journey to Washington, he shall be overtaken with sickness, and be prevented by it from reaching the capitol during the session. The exercise of the President's discretion, therefore, in this instance, is strictly in analogy with our legislation for ourselves; and for my own part, I cannot but think it was highly commendable in Mr. Randolph, when he accepted the mission, to have warned the administration that his health, though then good, might be affected by the climate of Russia—patriotic in him to have incurred a risk which very few men of feeble constitution would have encountered, and doubly so on one, with his fortune and at his time of life, to have determined to encounter the climate of St. Petersburg again, after having suffered to the extent he has done, and in the way he had apprehended. What was thought possible, or even probable, if gentlemen will rather please to have it so, has occurred to an extreme degree; and because disease, in a foreign climate, has driven one of our most distinguished men from the theatre of his services for a few months, there are those to be found here, who, instead of having a generous sympathy for the sufferer, seize upon his affliction to vent the bitterness of party resentments. There are periods which will permit no limit to our devotion to the public service; but when no such crisis impends, the man who, without being allured by the distinctions or the emoluments of office, exposes himself at the call of his country to what he knows may be uncommonly hazardous to his health, deserves uncommon praise. But, sir, the minister is only known to me by his fame, and I refrain from trespassing upon the generous anxiety of others who know him well, to protect him from imputation. The gentleman argued the question also with a view to make the impression upon the public, that, in any event, whether the minister should return or not to his post, it was intended by the administration to apply to his uses the entire salary for a year. This point, however, is regulated by law; and it will be a difficult matter for the gentleman and his coadjutors to make even a faint impression, that those who have been so recently engaged in correcting abuses in our diplomatic expenditures will subject themselves to any imputation from those who have been shamed by their vigilance. Nor can I agree with the gentleman, that, at this crisis in the affairs of Europe, our interests have or can suffer by the absence of Mr. Randolph. The Emperor and his cabinet have been engaged in more intense occupations, to the probable exclusion of such remote connexions as he has with us; and nothing can occur affecting the nations of Europe, and having any bearing upon our interest, which will not be as soon communicated to us through other channels, as it would be by the minister from St. Petersburg. But, sir, I will say no more. This motion is well understood; it is intended to accomplish nothing here, but has been made for outdoor effect; and the people will be as apt to detect the sinister design, as gentlemen have been to hope, and anticipate, and to insinuate, that something would grow out of this trifling appropriation, which would furnish them with a subject of reproach against the administration. They will be disappointed.

Mr. CAMBRELENG expressed his regret that, at so late an hour, he should be obliged to trespass on the attention of the House. He regretted, too, that any circumstance should render it necessary for him to notice

any remarks that might fall from the gentleman from Rhode Island, [Mr. BURGESS.] It was impossible, however, to let them pass without some notice. The honorable gentleman, said Mr. C., has given us an elaborate and minute account of our treaty with the Porte; assuming his own facts, he has discussed its merits, and animadverted on its imaginary imperfections. I shall not, Mr. Speaker, travel out of my way, and violate a rule of order, by entering now into that discussion, by examining the provisions of the Turkish treaty. Whenever I do, sir, my facts and my arguments shall be founded on something more substantial than a newspaper rumor; more unquestionable than the statement of an unprincipled partisan; more unimpeachable than the evidence of a perjured Senator. The gentleman has introduced other matters into this debate. We heard something of the wily policy of a Machiavel; of the deep and designing motives of a distinguished member of the cabinet; of "our minister to Russia, and his master the Secretary of State;" even, sir, endorsing, by insinuation, the stale slanders of the press. Mr. Speaker, I disdain to engage in such a debate with the gentleman from Rhode Island. I condescend to notice his remarks, only to repel and to denounce his unworthy insinuations. No, sir, I shall not contend with him—age cannot dignify the slanderer—a hoary head, though "crammed with *Ætna's* fires," cannot purify calumny, or sanctify it to the touch of honorable men. I have done with the gentleman from Rhode Island.

Let us turn, for a moment, sir, to this extraordinary motion to strike out the salary of our minister to Russia. I feel, Mr. Speaker, a proud satisfaction, that, amidst all the angry and violent collisions of our late political contest, the party with which I have the honor of acting never disgraced itself by a motion similar to that proposed by the gentleman from Ohio, and sustained by the gentleman from Rhode Island. [Here the SPEAKER called Mr. CAMBRELENG to order.] I claim, sir, the privilege of reply; I claim the privilege of vindicating my party, and have only to lament that others have not better appreciated their own dignity. In all that angry war, sir, we had no instance so degrading as a motion to strike out the salary of a minister on account of absence or indisposition. When our late estimable minister to France visited the waters of Aix la Chapelle, did any one on our side of the House humble himself and his cause by inquiring whether he had the permission of his Government to go there? Did any member of this House disgrace his country by a motion to strike out his salary, because the same minister had visited the lake of Geneva? No, sir. When the late administration appointed an aged invalid—a venerable, distinguished, and highly respected gentleman—our minister to Great Britain; when that venerable gentleman, notoriously in a rapid decline, was appointed to the most important and urgent mission within the gift of the Executive—was any member of our side so lost to decency and humanity, as to inquire whether he had the permission of his Government to visit the waters of Cheltenham! After that distinguished gentleman had visited the court of St. James, had resided there, and returned an invalid, physically and unfortunately incapable of discharging any one of the important duties assigned him by the late administration—was there, sir, one so poor among us, as to move to strike out his salary! No, sir, no. We played a nobler game, and won it. Mr. Speaker, it is the fortune—may, the high privilege of illustrious men, to be calumniated and pursued with bitter hostility. Our minister to Russia cannot escape—for he has occupied a high station in the political annals of our country—he has obtained for himself an illustrious rank in our parliamentary history. I have listened, sir, with delight and instruction to some of our distinguished rivals for parliamentary fame—to the simple, but persuasive and fascinating reasoning of a Lowndes—to the melodious

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and impassioned eloquence of a Clay—to the lucid, commanding, and solid argument of a Webster; but for a combination and profusion of all the weapons of parliamentary war—of wit, irony, sarcasm, imagination, and eloquence—he was surpassed by none—nay, sir, as a parliamentary orator, he was unequalled. He combined all the skill of a debater—the genius of a poet—with the patriotism and sound philosophy of a statesman. The people of this country owe him a large debt of gratitude. He was ever the vigilant enemy of power, and the devoted friend of our ancient and excellent constitution. With a political foresight and sagacity, beyond any of his distinguished rivals for parliamentary honors, he detected in the embryo, and resisted with prophetic wisdom, those measures which laid the basis of that gigantic accumulation of federal power and taxation which we are now so zealously endeavoring to check and moderate.

Such, sir, is the distinguished man—with thirty years' experience in the public service—with a familiar knowledge of all our national concerns, foreign and domestic—such the man to whom the President assigned the charge of our mission to Russia. With a frame constitutionally infirm, he departed upon his mission, and was necessarily left at liberty to leave his station, should his health require it. He retreated, through an evident necessity, from the inclemencies of a Russian winter. Had he ventured, sir, to remain, and, with his feeble constitution, to encounter the horrors of a Northern winter, we should not now have had occasion to discuss this miserable question about his salary! The career of this eccentric but illustrious man is near its close. Perhaps, even now, Mr. Speaker, while we are debating this wretched motion, Providence may have placed him beyond the reach of all his enemies. Should it be so, sir, every honorable adversary will leave him to his repose. None will pursue him there—none will hover over his grave—save the bald vulture and croaking raven.

Mr. MALLARY again rose, and enforced the views taken by him in the earlier stage of the debate, which have been already reported.

Mr. COKE, of Virginia, rose at a late hour of the day, and said that he regretted the necessity which constrained him to present himself before the House at that late period of the day, and at the present stage of the discussion. I should not do justice to myself, said Mr. C., if I omitted to state, that I appear under disadvantages which greatly embarrass me in the performance of the duty I propose to attempt. I feel bound to sacrifice all personal considerations, when they conflict with a sense of duty, such as now actuates me, in the effort to sustain my colleague in rescuing my State, my countryman, who is absent, and the administration, from the scoffs and sneers of the gentleman from Vermont, and the gentleman from Rhode Island.

It may not be amiss here to notice the valor and prudence of the gentleman from Ohio, [Mr. STANBERRY.] He submitted the motion to strike from the bill the sum proposed to be appropriated for the minister in Russia, out of which this angry discussion has grown; and when the consequences were realized, which previous concert with distinguished gentlemen of his party had, probably, secured, he warily retires from the scene, and eludes the attacks which his temerity had provoked. That it was prudent to secure himself from dangers against which he was not fortified, I cannot deny; and that his firmness sank under the perils of his situation, is an apology which excuses his retreat, I am not unwilling to admit.

The gentleman from Vermont, [Mr. MALLARY,] with his peculiar dignity of manner and style, has instituted a comparison of Virginia with Vermont, Connecticut, and Massachusetts. The effort did not commend itself to the impartiality of this intelligent body, by any of those appearances of respectful consideration which the dignity

of the subject might be expected to inspire. It wore no semblance of that impartial criticism which distinguishes an effort of the mind to work out a fair result.

The suggestions of reason and justice were not allowed to impede his hasty conclusions, or to dispute their equity. His determination was to sneer at Virginia, right or wrong. Let me assure the honorable gentleman that Virginia fears not the result of a comparison with Vermont, or any other State in this Union. It does not become me, standing in the relation I do to her, to speak of her in terms which my knowledge of her merits, and her own history would prove; but I may say, without impropriety, that the annals of this nation may be safely appealed to, in proof that her full quota of virtue, intelligence, and patriotism, has been contributed in winning the liberty, and securing the happiness we now enjoy.

The honorable gentleman has not been content with ridiculing Virginia. He has found it agreeable to his feelings, or consistent with his policy, to impute to the minister at Russia motives of private speculation in the acceptance of this mission. He tells us that, a few years ago, he heard a great deal of constructive journeys, and asserts that this mission is the most apt illustration of his idea of a constructive journey. The gentleman, to use his own beautiful phrase, wants "a man of bodily strength, who can stand face to face with the Emperor of Russia." Was ever a charge made more heedlessly? Was the wantonness of factious zeal ever distinguished by evidence so unerring, and so irresistible, as the ascription of such motives to John Randolph furnishes on this occasion?

Is the gentleman aware that he speaks of a man of fortune! a man of substance! of him who has land and slaves! whose income is from his crops—certain, fixed, regular, yea, as uniform as nature in her seasons—as invariable as produce in its price? He does not speak of some Eastern manufacturer who, to-day, is rich, and to-morrow is a beggar—whose capital and income depends upon the ebb or flow of public opinion—on the right or policy of the tariff system, or the quiescence and submission of the laborer to be shorn of the just remuneration of his toil. No, sir, John Randolph, if of a temper to be influenced by mercenary motives, is above their influence.

The gentleman, in his profile of a man fitted for a foreign mission, has laid great stress upon personal strength. I have now learned, for the first time, under the counsel of the gentleman from Vermont, that education and refinement, tact and talent, are subordinate considerations in the formation of a character for diplomacy. If this position be well founded, if it be true that dignity, combined with high intellectual endowments, shall yield the posts of trusts and usefulness to mere corporeal strength, I must acknowledge the appointment to be indiscreet, and admit (what I must otherwise deny) that the gentleman from Vermont is himself reformed into fitness for this distinguished station.

But the gentleman, in the ardor of his opposition, has denied that Mr. Randolph is a man of distinguished talents. He tells us he is a mere retailer of poetry, utterly unfit for such a station. This observation presupposes in the gentleman from Vermont a capacity to form a correct judgment upon the subject. But his vain confidence does not stop here. He imagines himself better qualified to determine the fitness of the individual for the station he fills, than the President who nominated him, or the Senate who confirmed and approved the nomination; and obliquely censures the wisdom of those sages who placed the power of appointment where it now resides. What immeasurable vanity! To what extremes of folly it drives those who cherish it.

I have now to notice some of the observations made by the honorable gentleman from Rhode Island, [Mr. BROWN.] Before I do so, I must be allowed to say that I

JAN. 13, 1831.]

*Minister to Russia.*

[H. OF R.]

have often regretted, and never more than on the present occasion, the unsparing censure which that gentleman never fails to bestow on those who are opposed to him in politics. Charity never whispers that men who err, (which they who think differently from himself are always supposed to do,) err from mere mortal weakness—that perfection and infallibility are attributes reserved to himself by the God who created us, and that man, when turned out of the hands of his Maker, was, as he is now, a short-sighted mortal, not having the capacity to see, and to know, and to provide for all things that are to happen. He holds his opponents bound to know and to counterveil the high decrees of heaven. Censure so indiscriminate denotes the absence of an ennobling virtue, and baffles its own purposes.

The gentleman complains loudly of the appointment of Mr. Randolph, his want of talents, and his departure for Russia. The Machiavelian policy of the President represents him as putting his name to a message written by somebody else, and, in terms of contumely, concludes that the appointment was necessary to conciliate Virginia.

The first remark I have to make on this subject is, that, in my judgment, the subject of a speech does not exempt the speaker from the operation of those rules of decorum which a gentleman ever acknowledges in all places. Precedents, in the violation of those principles, acquire no sanctity or authority from the eminence of the individual by whom they are practised; the breach is more palpable and inexcusable in such persons, than when committed by those who may not be presumed to be so well informed of their obligations. But, Mr. Speaker, reckless as I know to be the temper in which this motion was made, and ruthless as I knew the war against all persons concerned in this appointment, I could not have imagined that the gentleman would have been betrayed into reflections, so gross and undeserved, upon the minister, the State from which he came, and the President from whom he received the appointment. There is, in a desperate attack upon an absent man, so little of that magnanimity and nobleness of mind which lofty spirits seek occasion to practise, that I could not have expected any one to seize a mere pretext to show himself wanting in those properties. But, sir, it only proves what I have long believed, that every exercise of the gentleman's powers, which are confessedly great, is directed with a view to the prevalence of some factious interest or party measure.

He tells us that the minister at Russia has fled from the rigors of the climate to foggy England, instead of resorting to the genial climate of Italy; and by an insinuation, unworthy of himself, intimates that the appointment was made to win over Mr. Randolph to the support of a weak administration, and to tempt the independence of Virginia. Sir, I am the slave of no faction. I have not sworn fealty to this administration, or sued for smiles and favor by the sacrifice of my independence. I am as when I first came here—free to approve all that is good, and bold enough to condemn all that is wrong, in the acts of the President. But, shall a man be held responsible for consequences which no human sagacity could avert? Shall censure await the man who, in making an appointment to a foreign mission, does not ensure that the objects of the mission are not impeded or delayed by the dispensations of Providence? Does the gentleman insist, as a part of his political system, that all appointments to foreign missions are injudicious, unless they are bestowed on men having the essential properties of Hygeia? Sir, is it reasonable to believe that the President, embarrassed, as he has been, with every species of opposition, would have appointed a man whom he knew to be unfit, either by want of talents, or want of health, to accomplish the objects of the mission? This would be strange, indeed, that he should give to his very indulgent opponents a theme upon which to

lavish their abuse of him; or, is it more probable that the mission should have been accepted by Mr. Randolph, for the pleasure of falling sick in Russia? No, sir; it cannot be doubted that the mission was offered and accepted in the expectation that Mr. Randolph's health would enable him to remain in Russia until his object was accomplished.

But the gentleman has insinuated that the object was to flatter the minister, and the State from which he comes, into submission to the views of the President. Can it be necessary to remind the honorable gentleman of the noble disinterestedness and generous self-devotion of the person of whom he speaks, to convince him that the suggestion has no foundation? Need I remind him of that which the records of this House, and the chronicles of the times, will abundantly prove, that John Randolph has been opposed to those in power, from the days of General Washington to the last moment of Mr. Adams's administration, in order to show him and this House that he did not seek promotion by wooing and courting those who could dispense favors? No, sir; evidence in refutation of such a charge is wholly unnecessary, since the gentleman who made, and those who heard it, must be assured that it has been made, and is attempted to be sustained, by a zeal of opposition which seizes every occasion to diminish the popular fame of the individuals involved in it.

But, sir, the gentleman emphatically asks, where are John Randolph's monuments? He has not seen them—he has not heard of them. I answer, they are not to be found in the offices he has received at the hands of this Government. The records of appointment do not show them. It has not occurred in my day, nor in any other of which I have read, that opposition to power has been rewarded with promotion by those who are opposed. But I point the gentleman for an answer to his question to the people—there, in the hearts of his countrymen, he will find the monuments which gratitude for his devotion to their interests, and to the cause of liberty, has raised to him, and which continuing confidence cherishes with religious veneration. John Randolph, like the State which claims him, would not flatter “Neptune for his trident, or Jove for his power of thundering.”

The proffer of the appointment was made and accepted, in the hope and expectation that the best interests of the nation would be subserved; and if the minister has fallen sick, it is the act of God, not the crime of the President, or of the minister. Not less unfounded, or less excusable, is the insinuation that the appointment was necessary to conciliate Virginia. In what did the lure consist? In the offer of a foreign mission to one of her citizens, the gentleman would say. How long, may I inquire, sir, is it since the ambition of Virginia was tickled with such a toy? Cheap, indeed, must be her integrity, when it is struck off at such a bid. The insinuation is unworthy of the man who made it, and the place in which it was made. A fruitful subject for invective against the President has been found in that clause of his annual communication to this House, in which he states that Mr. Randolph was allowed to leave Russia in the event that the state of his health should render it necessary.

This appears to me, of all the monstrous things said by the gentleman in the course of his remarks, pre-eminent in absurdity. Will the gentleman have the goodness to inform me and the House whether there is any thing in the acceptance of a foreign mission which overrules the most valuable of all our natural rights—the right of self-preservation? If there is not, the permission accorded, and which is the source of the clamor, is no boon at all. It is nothing more nor less than he would have had a perfect right to do without it, and could not, with any color of impartiality, have been made a subject for censure, or the channel through which factious zeal should discharge its malevolence upon the devoted object. There are situ-

H. OF R.]

Mileage of Members.

[JAN. 14, 1831.]

ations in life, there are offices of public trust, the duties of which require of the incumbent to brave every danger, rather than seek safety in flight.

The field of battle, and the soldier's post, are stations never to be abandoned without disgrace, while they can be maintained. But I am incapable of discerning any such similitude in the embassy to Russia to a military post, as should require the presence of the minister to be continued at the peril of his life.

I will no longer detain the House in listening to the defence of charges so unjust and so unmerited. I leave the gentleman to that remorse of conscience which must harass the man who has accused the innocent, and abused the virtuous. I am, for the reasons assigned, opposed to the motion made by the gentleman from Ohio.

Mr. CHILTON then obtained the floor; but the usual hour of adjournment having arrived, a motion for adjournment was made, and agreed to.

FRIDAY, JANUARY 14.

## MILEAGE OF MEMBERS.

The House then resumed the consideration of the instructions proposed to be given to the Committee on Public Expenditures relative to the computation of the mileage of members of Congress—the question being on the adoption of the amendment heretofore moved by Mr. HALL on the 12th instant.

Mr. HALL said it was not his purpose in rising to detain the House. You know, sir, said he, that I rarely obtrude myself upon the notice of the House; but I feel constrained to do so on the present occasion, because the committee to which I belong, and myself in particular as chairman, have, by the order of the House, been placed under a responsibility which it was my wish to have redeemed in a manner somewhat different from what seemed to meet the views of the committee. It is known to the members of the Committee on Public Expenditures, that my wish was at first to have reported a bill containing precisely the provisions now offered in the proposed amendment. The committee, however, were of a different opinion; and the report presenting my own views with some of the Postmaster General's, was made to the House, recommending, should it seem good to the House, to give imperative instruction to the committee to report a bill according to any of the plans proposed in the report. The committee were bound to consider the passage of the resolution offered by the gentleman from Kentucky, [Mr. CHILTON,] as an evidence of the intention or wish of the House that something should be done. It was under that impression that I wished to have reported a bill such as I have mentioned. The committee overruled me, as they had the right to do. Conceiving that the responsibility placed on me as chairman of the committee had not been redeemed, or thrown off in a manner entirely satisfactory, I have availed myself of the amendment now proposed to place the subject again before the House—having done so, the responsibility will rest there; and now, as to myself individually, it is of little importance what direction the House may give it. But I must be allowed to say, that if (as I felt bound to concede, from the large majority by which the resolution for inquiry was sent to the committee) it was the will of the House that some alteration in the mode of computing mileage of members should be made, after maturely examining the subject, I am decidedly of opinion that the plan proposed in the amendment now offered is the only one which can work any practical benefit. If this is not adopted, I feel perfectly satisfied that no alteration of the mere phraseology of the law will do any good. It is entirely immaterial whether the terms are most usual road, most usual post road, or most usually and necessarily travelled post route or road. A little examination into the

subject will show, as indeed the letter of the Postmaster General clearly shows, that the result will be essentially the same, and that nothing like equality will be the result. This will be perceived when we consider that most who come to the seat of Government have to travel on curved lines. Those who live on the great public highway which runs from North to South, and do not live very remote from the seat of Government, not only travel upon the most usual public highway, but also upon the most usually travelled post route, and, at the same time, a direct, or nearly direct route. But they may, perhaps, overlook the fact, that others living at an angle either east or west of this great thoroughfare, are compelled to travel more or less in curved lines, and consequently further in proportion to the actual distance in a straight line, and that it is impossible to adopt, as is clearly shown, any rule which will operate precisely equal. A person living one hundred miles from Washington, on or near the great highway, running north and south through the country, would have but one hundred miles to travel, and be paid accordingly; but another might live not more than a hundred miles, and, from his peculiar situation, have to travel circuitously a hundred and fifty. The question is, whether he shall be paid for what he travels, or only for the actual distance from his residence to the seat of Government. The letter of the Postmaster General mentions several cases by way of illustration, to show that the post route system will not afford an equal rule. He mentions two cases which operate antithetically, the one to the North, the other to the South. By one, a member being paid according to the most usual post route, may yet have travelled only two-thirds of the distance paid for, while conversely, on the other, a member may travel on the most usual post route, and only be paid for two-thirds of the distance. And these, sir, are not hypothetical cases, though antithetical, and the converse of each other. These are not the only cases of this character; they are to be found in a vast number of instances. If it is believed by any one that any plan can be adopted to arrive either at equality or retrenchment, more effectually than the amendment proposes, I think him deceived. I go for retrenchment, real practical retrenchment; and the gentleman from Kentucky, who first introduced the resolutions relative to the subject of retrenchment, (for which he had my most hearty thanks,) will bear me out, when I say that I accompanied him *pari passu* around the whole journey he took upon the great road to retrenchment, voting for every feasible plan, or plan not feasible, which was proposed, under the committees instituted for the purpose; and now, according to the good old rule of "one good turn deserves another," all I ask of the gentleman is, to accompany me upon a direct line; my plan is a straight line, a mathematical line, the shortest line from point to point. By the bye, Mr. Speaker, what has become of the whole subject of retrenchment, of which we have heard so much for several years? Has it died a natural death, or, as an old neighbor of mine used to say of one who died calmly and silently, has it sauntered away? Take it altogether, sir, we have made but a sorry business of it. We have been palavering here about three years upon the general subject of retrenchment, and what have we done? Why, sir, so far as I am informed, all we have done has been to retrench one little mapmaker, who, if I am rightly informed, had a salary of \$1,500 a year, for copying maps from copies of maps, taken by somebody else, from maps made by some other person. I do not vouch for this, sir; it is what, however, I have heard, I believe, both on this floor and elsewhere. And, sir, if I am also rightly informed, though we retrenched his salary of \$1,500, by way of making amends, he has been re-engaged in the business, much more to his profit. This also I only give as I hear it. He had felt bound, in justification to himself, to place the subject again before the House; he had done

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Claim of James Monroe.

[H. OF R.]

so, and should there leave it. He begged leave, however, to correct an impression which, he understood, had been improperly made on the minds of some, that, in the remark in which he had used the word palavering, he had intended it to apply personally to some individual. This evidently was not the case, as must be plain to any one who heard the expression. The words were, "we have been palavering here about three years upon the general subject of retrenchment, and what have we done?" Evidently alluding to the general course pursued here; and I submit whether or not it has not been a fair subject for criticism. I hope no one will make an individual application of the expression to himself, or any one else. Mr. Speaker, as my object is to proceed at once with the subject, I ask for the yeas and nays.

Mr. CRAIG submitted an amendment to the amendment, to add to it the words, "with an allowance of ten per cent. for variation from the direct line."

Mr. DE WITT moved to lay the whole subject on the table. *Negatived*—yeas 26, nays 159.

The question then recurring on the amendment submitted by Mr. CRAIG,

Mr. BAILEY handed to the Chair the following, which he was desirous of submitting as a substitute for the original amendment:

Strike out after the words "*Resolved, That,*" and insert, so as to make it read—

*Resolved, That* the following be added to the standing rules of the House:

It shall be the duty of the Committee of Accounts to report to the House, during the first session of each Congress, a statement of the distance of the residence of each member from the seat of Government; which statement, when approved by the House, shall be the rule for calculating the mileage of the members.

But it was declared to be out of order.

Mr. CRAIG assigned his reasons for offering his amendment. Some members lived on or near the direct line—others did not—and it was his object to pay to those who did not, an addition of ten per cent. to the usual allowance for mileage.

Mr. CHILTON opposed the amendment. If a bill was passed containing such a provision, it would be giving an advantage to those members who lived on the direct line of travel to the seat of Government, of ten per cent. over those who had to travel over a mountainous country, and by a circuitous route.

The question was then put on the amendment proposed by Mr. CRAIG, and decided in the negative.

The question then recurred on the adoption of the amendment proposed by Mr. HALL, and it was decided in the affirmative, as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Armstrong, John S. Barbour, Barringer, Bates, Baylor, Bell, James Blair, Bockee, Borst, Bouldin, Brodhead, Brown, Cambreleng, Carson, Chandler, Claiborne, Clay, Coke, Conner, Cooper, Craig, Crawford, Crocheron, Daniel, Davenport, John Davis, Warren R. Davis, Denny, Desha, Draper, Dudley, Duncan, Eager, Earll, Horace Everett, Ford, Forward, Foster, Fry, Gaither, Gordon, Hall, Halsey, Hammons, Harvey, Hodges, Hoffman, Hubbard, Ihrie, T. Irwin, Jarvis, Richard M. Johnson, Cave Johnson, Adam King, Lamar, Lea, Lecompte, Lent, Letcher, Loyall, Lumpkin, Lyon, Magee, Mallary, Martin, Thomas Maxwell, Lewis Maxwell, McCoy, McDuffie, Miller, Mitchell, Monell, Muhlenberg, Nuckolls, Pearce, Potter, Powers, Ramsey, Reed, Rencher, Richardson, Roane, Scott, W. B. Shepard, A. H. Shepperd, Sill, Speight, Richard Spencer, Sprigg, Stanbery, Standefer, Sutherland, Swann, Swift, Taliaferro, Taylor, Test, W. Thompson, Trezvant, Tucker, Varnum, Verplanck, Vinton, Washington, Wayne, Weeks, Wickliffe, Wilde, Williams, Wilson, Wingate, Yancey.—114.

NAYS.—Messrs. Anderson, Angel, Arnold, Bailey, Noyes Barber, Barnwell, Beckman, Buchanan, Burges, Butman, Cahoon, Campbell, Childs, Chilton, Clark, Coleman, Condict, Coulter, Cowles, Crane, Crockett, Creighton, Crowninshield, Deberry, De Witt, Doddridge, Dorsey, Drayton, George Evans, Joshua Evans, Edward Everett, Findlay, Finch, Gilmore, Gorham, Green, Grennell, Gurley, Hawkins, Hinds, Holland, Howard, Hughes, Hunt, Ingersoll, W. W. Irvin, Jennings, Johns, Kendall, Kincaid, Perkins King, Leavitt, Leiper, Lewis, Martindale, McCreery, McIntire, Mercer, Norton, Overton, Pettis, Pierson, Polk, Randolph, Russel, Sanford, Shields, Semmes, Smith, Ambrose Spencer, Henry R. Storrs, William L. Storrs, Strong, John Thomson, Tracy, Vance, Whittlesey, C. P. White, Edward D. White, Young.—80.

So the amendment was adopted, in the words following: "*Resolved, That* the Committee on the Public Expenditures be, and they are hereby, instructed to report to this House a bill making it the duty of the Secretary of the Senate and the Sergeant-at-arms of the House of Representatives, with the aid of the Postmaster General, at the end of every session, to make an estimate, as nearly as possible, of the actual distance (in a direct line) of the residence of each member of the Senate, House of Representatives, and Delegate of a Territory, from the seat of Government; and that the mileage of members of Congress be computed, and their accounts for travelling be settled, according to such estimate."

Mr. VANCE and Mr. BATES both wished to propose further amendments; but they were declared to be out of order.

That proposed by Mr. VANCE was as follows: That the Secretary of the Senate and Clerk of the House of Representatives be directed to publish, at the commencement of each Congress, in two of the public newspapers of the city of Washington, a statement of the mileage as charged by the members of their respective bodies.

The SPEAKER was stating how the gentlemen referred to could get at their object, when

Mr. BUCHANAN rose to address the House; but the SPEAKER said the hour for morning business had expired, and the subject must pass over for the present.

The orders of the day were then announced; when Mr. BUCHANAN moved that they be postponed, for the purpose of taking up the bill "for the relief of certain insolvent debtors of the United States;" he said it was a matter of great importance, and he hoped the motion might prevail.

Mr. MERCER regretted that he should be obliged to oppose the motion; the bill for the relief of James Monroe had been made the special order of the day, and he wished it to be taken up, and, if possible, finally disposed of to-day.

#### CLAIM OF JAMES MONROE.

The motion to postpone the orders of the day was negatived; and, on motion of Mr. MERCER, the House resolved itself into a Committee of the Whole, Mr. FINDLAY in the chair, and resumed the consideration of the bill "for the relief of James Monroe"—the question being on a motion of Mr. CHILTON to strike out the enacting clause of the bill.

When the bill was last before the committee, Mr. CHILTON moved an adjournment, and was therefore entitled to the floor to-day; but he declined speaking on the subject.

Mr. SPENCER spoke at great length in favor of the bill, and, in the course of his remarks, vindicated the citizens of the city of New York in the course they had taken to procure the passage of a bill for Mr. Monroe's benefit.

Mr. COKE and Mr. BURGESS also spoke in favor of the claim.



H. or R.]

*Claim of James Monroe.*

[JAN. 14, 1831.]

Mr. IHRLE, of Pennsylvania, said: If I were on this occasion to give way to my individual feelings, and permitted myself to be under their control, I should certainly support the claim of the petitioner. No gentleman upon this floor estimates the character and services of Mr. Monroe more highly than I do; and if it were possible to persuade myself to doubt upon this question, I would freely, and without hesitation, give my vote in favor of the bill. But I have in vain endeavored to satisfy myself with regard to its propriety, and the conclusion to which I have arrived has been to myself a subject of regret. Sir, it is a painful subject. That a citizen upon whom all the honors of the republic have been bestowed, who has reaped the rich harvest of rewards—whose fame and name stand identified with the glory and past history of his country—that such a man, in the evening of his day, should be impressed with a belief that his country is ungrateful or unjust, is indeed a circumstance much to be regretted. In the investigation of such questions, however, we are not permitted to yield to our sympathies, nor indulge in personal predilection—there are other considerations of a graver character, which must guide us in the course we ought to pursue.

In the view which I have taken of this claim, for obvious reasons, I have confined myself principally to the memorial of Mr. Monroe himself, which was laid upon our tables during the present session, and I think it is fairly embraced under the following items: First. For additional expenses in the employment of several assistant secretaries during his mission to France, in the year 1794, the rent of a house for their service, and other accommodations. Second. For extraordinary expenses in England and France, arising from his detention there. Third. For losses sustained in the purchase of a house in Paris. Fourth. For gratuities to the citizens of Paris, and for assistance extended to American citizens then in France, who made appeals to his generosity during his mission there. Fifth. For compensation in negotiating certain loans during the last war, whilst Secretary of War; and, lastly, interest upon all these items, to the present period.

In the memorial just referred to, Mr. Monroe puts his claim upon the ground that the Government is in his debt, and, in submitting it to your consideration, he expressly solicits no indulgence or favor. Sir, if the claim be proved a debt due, I apprehend no one here pretends to doubt but that it should be paid; and whether it be a debt or not, appears to me the only inquiry necessary or proper for us to make. By a reference to the report of the committee of Congress, in 1826, which was raised upon a claim at that time presented by Mr. Monroe, it will be perceived that an allowance was then made for two of the items composing the present claim, viz. For contingent expenses of the mission to France, from the 1st of August, 1794, to the 1st of January, 1797, the sum of one thousand four hundred and ninety-five dollars and eighty-five cents, that being the average allowance to all the American ministers in France, deducting one hundred and ten dollars previously received; and for extraordinary expenses incurred by Mr. Monroe's detention in England, by direction of his Government, for the space of two years and four months, the sum of ten thousand five hundred dollars, together with interest upon both items from the 3d of December, 1810, to the 3d of December, 1825. The action of this House, then, having been already obtained, with regard to two of the items before enumerated, and now again presented, and the money having been paid, I consider that, with respect to them, the account is closed, and therefore, in the few remarks which I propose to submit, I will confine myself to the three remaining items of the demand.

It is not pretended by any one in favor of this bill, that Mr. Monroe had any instructions from his Govern-

ment to purchase a house in Paris. The course thus by him pursued, is placed upon the grounds of expediency and of sound policy. I assume it for granted, therefore, that no such instructions were, in fact, given; and that the Government was not privy to the purchase. Sir, in a step so extraordinary, I would suppose that some previous intimation, at least, should have been given to his Government, and the necessity or policy of the measure explained. I have searched, in vain, for evidence upon this subject. There is none upon your records; and it is, therefore, that, in the absence of all proof of that description, I hold it incumbent on the friends of this claim to satisfy us that the measure was, at least, expedient. Indeed, I think, under all the circumstances, the expediency of the measure should be apparent. The Committee of Public Safety, in France, shortly after his recognition by the then existing Government, proffered to Mr. Monroe a national house for his accommodation, which he declined to receive, because of that clause in the constitution of the United States which forbade him to accept any present or emolument from a foreign Power; and, for fear this refusal on his part might be misinterpreted, it is said he purchased the property in question. Sir, I cannot perceive, notwithstanding all that has been spoken and proved upon this subject, that there existed any reasonable ground for this apprehension. Mr. Monroe had assigned the true and substantial reason for this refusal, and doubtless the reason thus assigned, in the opinion of the Committee of Public Safety, was entirely satisfactory, as it certainly was conclusive. The citizens of France, I cannot believe, could expect, that, in any transaction with their Government, he should violate the constitution of his own country. There is, therefore, in my humble apprehension, no soundness in the argument; there was no reasonable cause to fear the displeasure of the French Government.

I do not profess, sir, to be well acquainted with the course usually adopted by this Government with our foreign ministers, in regard to their residence. But I cannot understand why Government should at all interfere. Are not our ministers in this respect free agents? and is it not reasonable they should be? A mansion or a situation that would be agreeable to one, might not perhaps please another. One may prefer the quiet and seclusion of the country, another the bustle and life of a gay metropolis. One may prefer to live a plain republican, another to compete with the wealthy in the glitter of his equipage. Whatever the inclination in this respect may be, Government, I apprehend, does not interfere. I do not suppose, nor do I desire to insinuate, that Mr. Monroe was unnecessarily extravagant. I desire merely to show how very idle, nay, how very inconvenient it would prove, if Government should undertake to control its ministers in the selection of a residence. Sir, if it should proceed so far, it might as well go further; and, besides selecting a residence, also control the expenditure of an outfit or a salary. Indeed, all that Government reasonably can require of its ministers, is an upright and vigilant discharge of their functions; that being accomplished, it will not stop to inquire where, or how they live—whether in a hut or a palace.

But I am wandering from the true point before me. It is said, however, that the purchase of a house assisted in giving the appearance of permanency to our amicable relations with the French republic. Sir, I cannot think so, unless the Committee of Public Safety were very easily convinced upon that subject, as they assuredly must have been if the mere purchase of property could induce such a belief. In reality, I cannot perceive what possible material difference there could be with the French Government, whether your minister's abode was in a rented mansion, for a term of years merely, or upon a purchased estate, at any time, at all times easily sold.

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[H. OF R.]

It is contended, I am aware, that Mr. Monroe, at the time he made the purchase, intended it for the use of the Government of the United States, and that the purchase was made with a view of making it the future residence of our ministers to France. Sir, I do not in the least doubt but that such was the intention of Mr. Monroe, because he says so now, and so declared it at that period. But to any one who will take the trouble to examine the documents upon your table on this subject, it will appear manifest, that if such was the intention of Mr. Monroe at the period of the purchase, that intention, beyond all doubt, was abandoned subsequently. Indeed, any other construction would place Mr. Monroe in a singular, perhaps unfavorable, attitude.

Mr. Chairman, this intention of offering it to the Government was abandoned certainly, because Mr. Monroe, before he left France, again disposed of it without consulting his Government. He sold it for a price beyond the original purchase money, with its interest and repairs superadded. He made the contract of purchase, as also that of sale, without consultation with his Government; and, besides all, if further proof were necessary, he put the money (fifty thousand livres) paid to him on account of the sale, into his private funds, and applied it to his private purposes.

It is true a loss was afterwards sustained, in the failure to recover the balance of the purchase money from his vendee, in consequence, as it was alleged, of a defect in the title. Sir, it was not the error of this Government, that Mr. Monroe purchased a defective title, and its evil consequences ought not, therefore, to fall upon it, notwithstanding the intention manifested in the purchase, when all intention to apply it to national purposes was afterwards abandoned. It would, indeed, produce a singular state of affairs, that any foreign minister should be at liberty to purchase property, and make his Government responsible only when a loss is sustained. To what extent such a privilege might be abused, it is needless to say: one result would follow, generally; the Government would certainly have all the losses to sustain, without a corresponding chance for the gains of the speculation.

I consider, therefore, Mr. Chairman, that in this transaction there was no manner of benefit derived to the United States. That this Government was in nowise consulted with regard to that measure, and had given no instructions concerning it; and, as it could not under the circumstances be a gainer, so it should not be made the loser, and particularly because Mr. Monroe, with whatever intention or design he may have made the purchase originally, beyond a doubt in this respect changed his mind, finally considering it as a part of his private estate, and as such disposed of it.

The second item of the claim is founded upon certain gratuities or donations to the people of Paris, as also for advancements made to citizens of America then in France, and who in their distress made appeals to his generosity. Mr. Chairman, doubtless this strikes you, as I think it must every other member of this committee, as being, at least, a very novel claim. I am persuaded there is no one here willing to urge it as a debt which the Government, upon any acknowledged principles, is bound to discharge. Then I would inquire of the honorable chairman of the committee, [Mr. MERRICK,] who have made it a part of their report, to show under what obligation the United States can possibly be to assume the payment of this claim.

True, it is in itself not very large, and by some, therefore, may be considered as unimportant; but still the question recurs, upon what principles is the claim to be sustained? Sir, I will not consider whether the objects of this charity were meritorious or otherwise; perhaps, if I were so disposed, the means for examination would be wanting. But, taking it as conceded that Mr. Monroe was in this respect truly benevolent and charitable, and I

do not doubt but he was, I would inquire whether, in so doing, he looked for any other reward than that reward which he doubtless received and yet enjoys. Sir, when your minister is disposed to become the dispenser of alms, he acts without the pale of his ministerial functions. It forms no part of his public duty. He may, perhaps, imagine that such conduct may exert a beneficial influence upon the interests of his country, yet, as he is not despatched for the purpose of distributing his charities, the Government therefore cannot be made responsible.

I wish not to detract from the course thus pursued by Mr. Monroe; he was a benevolent man, and such conduct is worthy of imitation; but as these acts of his generosity were individual in their character, as the donations emanated solely from the purity and excellence of his heart, I feel persuaded, in our legislative character, we ought not, as I am convinced in reality we cannot add to his reward.

But, Mr. Chairman, this is a delicate subject, and I pass, without saying any thing more, to a more important item of this claim—an item which, exclusive of interest, is put down at \$25,000: I allude to the compensation for loans negotiated by Mr. Monroe during the last war, whilst officiating as Secretary of War. Sir, it was truly said by an honorable gentleman from North Carolina, during this debate, [Mr. WILLIAMS,] that for many years past the financial situation of this country has been unembarrassed, and perfectly adequate to all its engagements; and hence it appears to me not a little remarkable that this item, important in all its aspects, has not been presented before.

I have not taken the trouble to examine minutely into the accounts heretofore settled with Mr. Monroe, nor have I searched for any other evidence than that furnished by the two very respectable and intelligent committees to whom these subjects have been referred. From the reports, however, upon your table, I perceive that Mr. Monroe was Secretary of State from the 1st April, 1811, to the 30th September, 1814, three years and six months, at \$5,000 per annum, during which he received from the public treasury the sum of \$17,500; that he was Secretary of War from October 1, 1814, to February 28, 1815, five months, at \$4,500 per annum, and received for salary \$1,875; and that he was again Secretary of State from 1st March, 1815, to 3d March, 1817, two years and three days, at a salary of 5,000 dollars per annum, and received \$10,041 65, a sum altogether amounting, by way of salary, to \$29,416 65 for a period of five years eleven months and three days' service.

It is manifest, therefore, that Mr. Monroe, for the period when these loans were negotiated, received his legal compensation by way of salary. The service in question was rendered within the period I have mentioned. He has, therefore, received the legal compensation for his services, the amount affixed by law, and for which he undertook the service with all its burdens. The duty having thus been performed, and the salary received, on the part of the Government, then, the contract was terminated. Does it not follow, therefore, Mr. Chairman, that the claim now under consideration is a demand for an extra compensation? In plain terms, you are asked to make an extra allowance for services performed, to compensate which there was a fixed salary, amply sufficient for all the labor bestowed. I say, sir, ample, because I am yet to hear that it is considered otherwise.

I should not, Mr. Chairman, be doing justice to this old and faithful servant of the republic, if I did not concede he rendered eminent services for his country. His history is our history; but while speaking of these services, what more to his praise can be said, than that he discharged the duties of the varied situations which he filled with fidelity? Sir, can you bestow a higher eulogium upon any man, than to say he retired from every public situation which he held, taking with him an irreproachable fame, together with the approbation of his country? Sir, I grant

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Claim of James Monroe.

[JAN. 14, 1831.]

he rendered important services, and discharged his duty faithfully; but, for so doing, I do not consider that the Government is under any obligation to make him an extra allowance. If it be, then every other officer of the Government, whether he be found in the navy or the army, or upon your civil list, who has rendered faithful service, is also entitled.

That there are such, you, Mr. Chairman, will allow: a list of such could soon be made out. Sir, upon that principle, in the very number of witnesses who, on this occasion, have testified to the services performed by the ex-President, without going further, you would find objects for your bounty. Men, it is true, who performed an humbler, but at the same time not the less necessary task, but who are on this as on every similar occasion, too frequently overlooked or forgotten in the honors and triumph which await only the few.

Now, I appeal to the good sense of all who hear me, whether a precedent such as we are asked on this occasion to constitute, is consistent with a sound policy. In effect it would be holding out salaries to men as inducements merely to accept a trust, and then to pay them besides for doing their duty. There is no obligation upon any one to undertake these responsibilities; but, when he does so, he is under a moral as well as legal obligation to discharge the duties thereof with fidelity. Such were the responsibilities in the present instance. For this duty he has been paid, and, I think, well paid. He has received all to which he was entitled by the contract. I cannot perceive, therefore, Mr. Chairman, that the Government of the United States is under a legal or a moral obligation to pay any more. There is, in fact, no indebtedness established, which alone could bind us.

I have thus endeavored to show that, upon principles of legal liability, the Government owes Mr. Monroe nothing; and it becomes me now to consider whether we can with propriety liquidate this claim upon any other ground. As a donation, nothing is desired: Mr. Monroe asks "for nothing which is not strictly due on sound principles, and which his country shall, on full consideration and unquestionable evidence, think that it owes it to itself to allow him." Nevertheless, as an individual, I have every disposition to favor the application; but, in doing so, I very much doubt my authority to do it by any means not my own. Sir, I am at a loss to discover that we have the right to be generous at the expense of others. If I were asked the question, upon what principle the gratuity was to be made, I should not be enabled to answer; I speak with reference to the duties we are delegated to perform.

I am acquainted with no principle consistent with our duties as legislators, that will authorize the members of this House to lay their hands upon the public treasury for purposes of this kind. It is, indeed, no part of the business, to transact which we are delegated. But, sir, aside from these considerations, I ask you, Mr. Chairman, whether, in paying this very large sum of money, we should be doing justice. Are there not others whose claims are equally pressing, and who have not been so well provided for as Mr. Monroe? Are there not other men who also fought and bled for their country? Men who spent their youth and fortune and strength in her cause? Let me ask, have you paid these men the debt you owe them? Have you paid your revolutionary army? Sir, these men, the patriots of other days, have not yet been paid; this debt of honor, of gratitude, and of contract, still remains open against you. How often is it that the venerable patriot of the revolution is seen lingering about your doors; and how often is he turned away, with regret I say it, not with his honest dues in his pocket, but with a heavy heart, to reflect upon his services, and the injustice and ingratitude of his country, to live in penury, and die a beggar.

But admitting, Mr. Chairman, that you are willing to pay this claim, I am at a total loss to conceive upon what ground

interest is to be allowed also. Certainly not one of the gentlemen has condescended to show us upon what principle this is to be effected. Interest, it is true, usually follows a debt, and is given by way of damages for its detention. But, Mr. Chairman, there can be no debt outstanding, where all has been proved paid according to agreement. It is true, also, that when a payment is withheld illegally or unjustly, interest should follow by way of recompense. But gentlemen fail in the outset of their argument; the foundation is not laid, and you cannot add the superstructure. They must establish an indebtedness first, before they can set up a claim for interest; but in their attempts at this they have entirely failed.

I pass, however, Mr. Chairman, to another, and perhaps the most important view of this subject. You know, sir, that, in the year 1826, Mr. Monroe made an application similar in many respects to the present, consisting of various items, some of which are again to be found in the demand before us, and amounted to the sum of \$23,570. A very able committee was appointed, who made a report, making some reduction in the amount, but still allowing for all the items of that claim, save one. I think they reported as being due to Mr. Monroe the sum of \$15,533 35, together with interest from 3d December, 1810. It may not be necessary that I should here state the progress of that bill to its final passage. Suffice it to say, that to the amount thus reported was superadded the interest for a period of fifteen years, thereby swelling the sum reported as being due by the committee to \$29,513.

Here, then, Mr. Chairman, a greater sum was finally allowed than the principal of Mr. Monroe's claim at that day amounted to. This doubtless was done from a disposition alike honorable to Congress as it was generous towards Mr. Monroe. In doing so, however, Congress deemed it proper to impose terms; and, with a desire that this committee may fairly comprehend me, I ask you, sir, that the act of Congress passed in the year 1826 for the relief of Mr. Monroe be read.

[Here the Clerk read as follows:]

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to cause to be paid to James Monroe, out of any unappropriated moneys in the treasury, the sum of twenty-nine thousand five hundred and thirteen dollars, in full of all demands whatever against the United States."*

Mr. HIRIE resumed. Now, Mr. Chairman, I cannot perceive upon what principle we can again be called upon to legislate on this subject, without violating our own deliberate act. The money was voted, and it was received, and, in the spirit and very letter of the law, was intended as a final adjustment of all Mr. Monroe's demands. Sir, in a court of justice, the Government might, if disposed, plead a former recovery with some propriety; at any rate, upon whatever principle you may desire to place it, the plain rule of ordinary life should hold, that a debt or a claim, or by whatever name you may please to call it, being once settled and paid, should be permitted to rest. It is not equitable that the Government should again and again be called upon to account, particularly after a final adjustment, to the terms of which the parties interested have acceded.

Mr. Chairman, I have thus briefly passed through this subject. I feel it my duty to give my vote against this application, in whatever form it may present itself; a duty, sir, by no means in accordance with my wishes. Sir, I would I could conscientiously give my voice in favor of the venerable patriot whose life and reputation I have always been taught to esteem; I should deem it a pleasure, which I hope ever to enjoy, in contributing my feeble efforts to the benefit of those who sustained this republic in the hour of her need. But I cannot permit my inclinations

JAN. 17, 1831.]

*The Impeachment.—Fuel for the Poor of the City.*

[H. of R.]

to sway my judgment; I cannot consent to give to one, and withhold from another; I wish my country to be just before she is generous.

Mr. MERCER rose, and, in a speech of some length, replied to the arguments of those gentlemen who had opposed the bill. In conclusion, he handed to the chair the following, which, he said, if the motion now before the House should not succeed, he should offer as an amendment to the bill:

"That the proper accounting officers of the treasury be, and they are hereby, authorized to adjust and settle the accounts and claims of James Monroe, late President of the United States, on principles of equity and justice, subject to the revision and final decision of the President of the United States.

"And be it further enacted, That so soon as it shall have been ascertained and determined, in manner aforesaid, that any sum of money is due to the said James Monroe, such sum shall be paid him out of any money in the treasury not otherwise appropriated."

The proposed amendment was read by the Clerk; when

The question was put on striking out the enacting clause, (to destroy the bill,) and it was decided in the affirmative—yeas 78, nays 67.

The committee then rose, and reported progress.

On motion of Mr. ALSTON, it was ordered that when the House adjourns, it do adjourn to Monday next—66 to 57.

And then the House adjourned to Monday next.

MONDAY, JANUARY 17.

#### THE IMPEACHMENT.

After the reading of the journal of Tuesday, Mr. HAYNES submitted the following resolution:

*Resolved*, That, during the argument of counsel in the impeachment now pending in the Senate against James H. Peck, district judge of Missouri, this House will, from day to day, resolve itself into a Committee of the Whole on the state of the Union, and attend the same; and that the Clerk acquaint the Senate therewith.

Mr. HAYNES said that it was understood that, upon the opening of the high court of impeachment to-day, the arguments of counsel would commence. He thought it the duty of the House to attend during the arguments; and with that view he had submitted the resolution.

Mr. WHITTLESEY suggested the propriety of amending the resolution, by adding to it the following words: "and that the hour of meeting of the House shall be 11 o'clock after this day."

Mr. HAYNES accepted the amendment as a modification of his resolution.

Mr. WILLIAMS then moved so to amend the resolution as that the House should attend for this day only.

This motion was determined in the negative.

Mr. PETTIS called for the yeas and nays on the adoption of the resolution; but the House refused to order them.

The question being then put on its adoption, it was decided in the affirmative—yeas 89, nays 74.

#### FUEL FOR THE POOR OF THE CITY.

Mr. DAVIS, of South Carolina, said he rose for the purpose of asking the consent of the House to suspend the rule, to enable him to present for instant consideration a resolution which would lose half its efficacy by a few hours' postponement. The object of it was to give out of the surplus wood now rotting in the yard, forty cords for the immediate relief of the suffering poor of the city, some of whom might be seen from the windows of the capitol, burning their garden fences to sustain them against an unparalleled snow storm. Mr. D. then submitted the following resolution:

*Resolved*, That the Sergeant-at-arms of this House inform the guardians of the poor of this city that they

have leave to take from the surplus wood in the yard attached to this House — cords of wood, if so much be necessary, for immediate distribution among the suffering poor of the city.

The resolution having been read, Mr. CARSON moved to suspend the rule, so as that the House should now consider the resolution.

Mr. BLAIR, of South Carolina, called for the yeas and nays on this motion; but the House refused to order them.

The question being put on the suspension of the rule, it was decided in the affirmative—110 to 49.

The Clerk then read a letter which the Speaker had received this morning from George Watterston, Esq. on the subject, in which he stated several cases of suffering which had occurred in the city, and the great necessity there was for Congress to take into their consideration the expediency of appropriating some of the surplus wood in the capitol yard for the relief of the suffering poor.

Mr. DAVIS, of South Carolina, moved to fill the blank in the resolution with the word forty, and it was determined in the affirmative.

The question then recurring on the adoption of the resolution,

Mr. TUCKER, of South Carolina, opposed it. He said that Congress had no right to give away the public money for such purposes. If it were proposed to get up a subscription for supplying the poor of the city with wood, he would cheerfully subscribe his share, and would freely exert himself to procure fifty cords, if necessary. He had always voted against similar propositions—and he did it on principle. He referred to several acts of legislation, by which the public money had been voted away for private purposes, and said that it had been asserted that those who had voted against such appropriations had been condemned; but those who had taken it upon themselves thus to condemn, had never looked upon the matter in a proper light. He again stated that he should be willing to unite with gentlemen in raising fifty or even seventy cords of wood for the poor of the city, by subscription; but he could not consent to an appropriation of the public money for the purpose.

Mr. WHITTLESEY said he was persuaded that the House was prepared to vote on the proposition before it; and, as he considered it useless to consume time in debating the resolution, he should demand the previous question.

The House having sustained the demand, the question occurred, "Shall the main question be now put?" and it was determined in the affirmative.

Mr. TUCKER called for the yeas and nays on the question of adoption, and they were ordered by the House.

[Here a message was received from the Senate, acquainting the House that that body was now sitting as a high court of impeachment for the trial of Judge James H. Peck.]

Mr. POLK asked if the House should not now, in pursuance of the resolution adopted this morning, proceed to the Senate. That body was probably waiting for the attendance of the House.

The SPEAKER replied, the House must determine for itself as to what course it would at this time pursue.

Mr. IRVIN, of Ohio, hoped the question would be taken on the adoption of the resolution now before it, before proceeding to the Senate chamber.

Mr. RAMSEY inquired if it were not proper for the House, after the message just received, now to proceed to the Senate chamber.

The SPEAKER said that question must be left with the House to decide.

Mr. POLK then moved to lay the resolution on the table; the motion was decided in the negative, without a count.

The question was then put on agreeing to the resolution, and it was decided in the affirmative, as follows:

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*Trial of Judge Peck.—Relief Vessels.—Order of Debate.*

[JAN. 18, 1831.]

YEAS.—Messrs. Anderson, Archer, Arnold, Bailey, Noyes Barber, John S. Barbour, Bartley, Bates, Baylor, Beekman, Bell, John Blair, Boon, Borst, Brown, Burges, Butman, Cahoon, Cambreleng, Campbell, Carson, Chilton, Clay, Clark, Coleman, Conner, Cooper, Coulter, Craig, Crance, Crawford, Crockett, Creighton, Crocheron, Crowninshield, John Davis, W. R. Davis, Deberry, Denny, Doddridge, Dorsey, Draper, Drayton, Dwight, Eager, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Findlay, Finch, Ford, Forward, Gilmore, Gorham, Green, Grennell, Gurley, Hawkins, Hemphill, Hinds, Hodges, Holland, Howard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, William W. Irvin, Jarvis, Jennings, Johns, R. M. Johnson, Cave Johnson, Kendall, Kennon, Kincaid, A. King, Leipert, Lent, Lewis, Lumpkin, Lyon, Lewis Maxwell, McCreery, McDuffie, Mercer, Miller, Mitchell, Monell, Muhlenberg, Norton, Overton, Patton, Pearce, Pettis, Pierson, Potter, Ramsey, Randolph, Reed, Rose, Russel, Scott, Wm. B. Shepard, Aug. H. Shepperd, Shields, Semmes, Sill, R. Smith, Spencer, Stanbery, W. L. Storrs, Strong, Sutherland, Swann, Swift, Taliaferro, Taylor, Wiley Thompson, John Thomson, Tracy, Vance, Varnum, Verplanck, Washington, Whittlesey, Campbell P. White, Edward D. White, Wilde, Wilson, Wingate, Young.—136.

NAYS.—Messrs. Alexander, Allen, Alston, Angel, Armstrong, Barringer, James Blair, Bockee, Bouldin, Brodhead, Chandler, Claiborne, Cowles, Davenport, Desha, De Witt, Earll, Foster, Fry, Gaither, Gordon, Hall, Halsey, Hammons, Harvey, Haynes, Hoffman, Hubbard, Perkins King, Lamar, Lea, Leavitt, Lecompte, Loyall, Martindale, Martin, Thomas Maxwell, McCoy, McIntire, Nuckolls, Polk, Rencher, Roane, Sanford, Sprigg, Standefer, Trezvant, Tucker, Vinton, Weeks, Williams.—51.

#### TRIAL OF JUDGE PECK.

On motion of Mr. WHITTLESEY, the House then resolved itself into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the Senate. At 4 o'clock the committee returned, and reported progress; and then

The House adjourned.

TUESDAY, JANUARY 18.

#### RELIEF VESSELS.

The bill from the Senate, to enable the President to employ relief vessels on our maritime coast, was twice read.

Mr. CONDUCT moved its reference to the Committee on Naval Affairs.

Mr. DRAYTON moved its reference to the Committee on Commerce.

Mr. CAMBRELENG said, if the bill was to be acted upon at all, it was of the utmost importance it should be done speedily. He stated the object of the bill, and urged its reference to the Committee of the Whole on the state of the Union, so that it might be called up, and receive the early consideration of the House.

The latter motion prevailed.

Mr. SMITH submitted the following resolution:

*Resolved*, That the use of this hall be granted to John Foulke, a member of the Society of Friends, at 7 o'clock this evening, for the purpose of delivering a religious discourse.

A motion was made to lay the resolution on the table; which was negatived.

Mr. MERCER then offered the following amendment; which was agreed to: "And that the Colonization Society, also, have leave to occupy this hall to-morrow evening at 6 o'clock."

The question was then put on adopting the resolution as amended, and carried in the affirmative.

#### ORDER OF DEBATE.

Just before the hour of twelve, at which the House was to proceed to attend the sitting of the high court of impeachment,

Mr. MARTIN said he would not, at this hour, when the House was so pressed for time, throw himself upon the attention of the House, were it not in a matter in regard to which he felt himself placed in a very delicate situation. It was known to the House, he said, that, in consequence of the indisposition of the Speaker, the duties of the Chair had of late been temporarily assigned, occasionally, for parts of several days past, to him, [Mr. M.] In what manner he had discharged those duties, Mr. M. said it was not for him to decide, but he could safely say that he had brought to their discharge his best abilities, and the most earnest disposition to preserve the order of the House. It was known, further, he said, that on Thursday last a debate took place of an unusual character, (alluding to the debate on the mission to Russia.) There was certainly displayed on that occasion more personal feeling than he could have wished; but, with the most sincere desire to preserve decorum in debate, nothing had reached his ear which seemed to him to call for the interposition of the Chair. Something might have fallen from members which did not reach his ear, and which was offensive and unparliamentary. Difficulty of hearing, from the low tones of some speakers, or the rapidity of utterance of others, sometimes makes it doubtful what is the precise language in which they express themselves.

Mr. M. said he felt the full force of these difficulties when in the chair, on Friday last. But so far as he was able to understand what was uttered in debate, there was only one occurrence, on that day, which appeared to him to call for the interposition of the Chair. The gentleman from New York, referring to the gentleman who had moved the pending amendment, charged him with having made "a disgraceful motion," which language the Chair promptly checked, and declared to be out of order. Yet, looking over the report of that debate in this morning's paper, it was due to himself, to the House, and to the good opinion of the nation, to say, that words appear in that report which were not uttered in the debate, to his hearing. He would not detain the attention of the House by going over all the terms of it which appeared to him exceptionable, but he could not, consistently with a sense of duty, sit down without particularizing one expression reported as having been used by the gentleman from New York, [Mr. CAMBRELENG,] in the following passage of his speech:

"I shall not, Mr. Speaker, travel out of my way, and violate a rule of order, by entering now into that discussion, by examining the provisions of the Turkish treaty. Whenever I do, sir, my facts and my arguments shall be founded on something more substantial than a newspaper rumor—more unquestionable than the statement of an unprincipled partisan—more unimpeachable than the evidence of a perjured Senator."

Now, Mr. M. said he should have been guilty of the grossest and most flagitious misconduct, as presiding officer, if, hearing such language applied to a member of the other House, he had not interposed to arrest it. With this paper before it, this House could not refuse to receive a committee from the Senate to demand an inquiry into the alleged perjury. He did not say that such language as this had been actually used; but if it had been heard by him, it would have been an insult to the House not to have stopped the utterer of it. He took it for granted that the reporter of the debate had labored under great misapprehension: but, seeing that it had got into print in this exceptionable form, he had thought it proper to offer this explanation of his own conduct in the premises.

Mr. CAMBRELENG then rose, and said: It is far from my wish to trouble the House; but so grave a charge



JAN. 19, 1831.] *Trial of Judge Peck.—Mileage of Members.—Supernumerary Officers and Cadets.*

[H. of R.]

has been made against me by the gentleman from South Carolina, who, on Thursday last, filled, *pro tempore*, the chair you now occupy, I feel incumbent on myself to make a very brief reply. Sir, I will, in the first place, relieve the gentleman from South Carolina from all his doubts upon the subject. I did use the words "perjured Senator;" and I shall, on a similar occasion, and in the same manner, apply them again. I used the words, and shall not retract them here or elsewhere. What, sir, was the provocation when that extraordinary debate took place? I, in common with other members of the House, had listened, without the least intervention from the Chair, to a vituperative and violent attack upon our venerable Chief Magistrate; a tirade of low abuse, and the most disgraceful insinuations against the President, the Secretary of State, and our minister to Russia. Yes, sir, I not only heard them, but I have marked in the paper I now hold in my hand, passages and epithets in his published speech, disgraceful to this House—base, gross, and infamous.

[Here the SPEAKER observed, there was no charge made against the gentleman from New York. The member from South Carolina had only risen to state, in explanation to the House, that certain remarks were ascribed in a newspaper to another member, which he did not hear uttered, and for which, if he had heard them, he should have felt it his duty to call him to order.]

Sir, when I was interrupted by the Chair, I was coming to the point in question. What was the occasion—what the manner in which the words "perjured Senator" were used? The gentleman from Rhode Island had not only gone on uninterruptedly with his abuse, but he went into a grave denunciation of the Turkish treaty; at a moment when, as rumor says, and as it is believed, that treaty was a subject of discussion—of secret discussion in the Senate of the United States—was there not something revolting in this spectacle?—when a treaty was known only to the cabinet and the Senatorial council of the Executive—when the friends of the administration could get no information whatever—when, sir, intimate as I am with the Secretary of State, (and I am as much in his confidence as any other member of this House,) I have never heard him utter one syllable on the provisions of the Turkish treaty—when that treaty was presumed to be under discussion in the secret sessions of the Senate, the gentleman from Rhode Island presents us with the revolting spectacle of going into an examination of its provisions. Where, sir, did the gentleman from Rhode Island get his information? From one of his friends—the editor of a newspaper—an unprincipled partisan, or one who had violated his oath—some perjured Senator? Sir, I know not where the gentleman from Rhode Island obtained his information—he may take his choice of these alternatives; he may take either of his confidential friends, the editor, the partisan, or the Senator. I made no charge then, I make none now; I put the case then, as I now put it, hypothetically. All I meant to convey—and with all deference to the gentleman from South Carolina, and the SPEAKER—all that my language does convey, is this: if the gentleman from Rhode Island received his intelligence from a Senator of the United States, then, sir, that Senator has violated his oath of secrecy, and stood in the eyes of the world a "perjured Senator;" and upon such evidence I would not rely for my facts as a basis of any argument on the Turkish treaty. Whether any Senator has placed himself in that unenviable attitude, is a question the gentleman from Rhode Island may answer for himself—he may push that inquiry as far as he pleases.

[The SPEAKER said there was no question before the House; and repeated his former remarks, that the gentleman from South Carolina had made no charge against him.]

Mr. CAMBRELENG repeated that he had uttered the words attributed to him.

Mr. MARTIN replied, he was sorry to hear from the gentleman that he did use the words, even in the alternative. He [Mr. M.] had understood the gentleman to use the words "perjured witness;" and he believed, if the question was decided by the gentleman's "peers around him," he [Mr. M.] would be sustained. But, if the gentleman insists that he used words manifestly out of order, it was no longer his [Mr. M.'s] business, after the explanation he had given.

Mr. BURGESS rose to address the House.

The SPEAKER said, the gentleman from Rhode Island was out of order. He could reserve his remarks until this subject came in its proper course under the consideration of the House.

Mr. BURGESS then resumed his seat.

#### JUDGE PECK.

The House then went into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the Senate chamber, to attend the trial of Judge Peck.

On returning, they reported progress; and The House adjourned.

WEDNESDAY, JANUARY 19.

#### MILEAGE OF MEMBERS.

The House resumed the consideration of the report of the Committee on Public Expenditures, made on the 7th instant, in relation to a uniform rule of computing the mileage of members of Congress.

Mr. CHILTON moved an amendment, so as to change the rate of mileage from eight to six dollars for every twenty miles travelled in going to and returning from the seat of Government; but

The SPEAKER declared the motion to be out of order.

The question then recurred on the motion heretofore made by Mr. CHILTON, as amended on the motion of Mr. HALL, to recommit the report to the Committee on Public Expenditures, with instructions, as follows: "To report a bill making it the duty of the Secretary of the Senate and the Sergeant-at-arms of the House of Representatives, with the aid of the Postmaster General, at the end of every session, to make an estimate, as nearly as possible, of the actual distance, in a direct line, of the residence of each member of the Senate, House of Representatives, and delegate of a territory, from the seat of Government; and that the mileage of the members of Congress and delegates be computed, and their accounts for travelling be settled, according to such estimate."

The question being put on the proposed recommitment, it was decided in the affirmative, by yeas and nays—120 to 27.

#### SUPERNUMERARY OFFICERS AND CADETS.

Mr. WICKLIFFE submitted the following resolution: *Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of dismissing from the army the supernumerary lieutenants by brevet commission.

That the committee also inquire into the expediency of fixing the age between 17 and 21 years, as the period of admission into the West Point Academy; and that all the graduates, from time to time, at that institution, shall be discharged from the army, when not needed in the actual service of the country:

That they inquire into the expediency of authorizing appointments in the line of the army, from the meritorious non-commissioned officers of the army:

And, also, of reducing the number of cadets in said academy, now authorized by law.

Mr. WICKLIFFE said he did not offer the resolution as a matter of mere form; he offered it with a sincere de-

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sire that it should receive the deliberate attention of the Committee on Military Affairs, and every member of this House; and, when so considered, he confidently believed that its principles would be carried out by the efficient action of Congress. It is possible, said Mr. W., that I have imbibed erroneous opinions and improper prejudices against the present organization of the Military Academy. (I mean no reflection upon the conduct of those whose business it is to superintend its management.) If I have been in error, the most laborious investigation and deliberate reflection have not enabled me to correct the opinions heretofore expressed; but every day's results tend, more and more, to convince me that Congress should review its legislation upon this subject.

By the act of 1802, what is now called West Point Academy, was organized for a particular purpose. It was designed as a nursery, a school of practice for the junior officers of the army. As a military institution purely, I am its friend and advocate; as a school for the education of the youth of the country generally, of one class, and that the wealthy and politically influential, and at public expense, I am opposed to it. I will not now, sir, detain the House by a statement of the reasons which have conducted my mind to its present results.

By the act to which I have referred, the corps of engineers then in service, with one chief and six assistant engineers, were stationed at West Point, and organized into a school for the education and instruction of the junior officers of the army. The President was authorized to appoint ten cadets only, who were to be stationed at West Point, and be attached to the army, to be paid sixteen dollars per month, and two rations per day. The whole corps was not to exceed twenty officers, one colonel, one lieutenant colonel, two majors, four captains, four lieutenants, and four second lieutenants. This, I believe, in the time of Mr. Jefferson, that good old time of practical republican economy, constituted the Military Academy. In 1803, the President was authorized to appoint one teacher of the French language, and one teacher of drawing, &c. In 1812, one professor of natural and moral philosophy, one professor of mathematics, one professor of civil engineering, with assistants, and the number of cadets then limited, or rather extended, to two hundred and fifty.

I have thus, Mr. Speaker, given in brief the organization and progress of this institution up to 1812. With any further alterations, additions, and details, I will not trouble the House. When the cadets shall have received a regular degree from the academical staff, the President is required to confer upon them the rank of second lieutenants, by brevet commission, and attach them to the army, with the pay and emoluments of second lieutenants. What has this official nursery produced in the space of eighteen years? I do not refer to the hundreds who, having received their education at public expense, have retired to civil pursuits—I refer to the number who have clung to the army, and still cling to it, and are called supernumerary officers. If they are supernumerary, by which I understand a greater number than is warranted by law, or required in the service, I am for getting rid of them as soon as possible.

I will call the attention of the House to a single passage in the report of the Secretary of War, at the present session. By that report, we are told that,

“By the act of 1818, the President of the United States is directed to confer upon the graduates of this academy the appointment of brevet lieutenants. Already there are eighty-seven supernumerary officers thus created, and who cannot now be provided for in the line of the army. In June next there will probably be thirty-three more added, which will produce an excess of fourteen over the number authorized. The law prohibits the brevet appointments of a greater number than one hundred and six—one for

each company; of course, upon a reasonable calculation, but few, if any, of the cadets, after June, 1831, will be entitled to a brevet commission. I would respectfully suggest if some rule, different from the present, be not necessary to restrict, for the future, brevet lieutenant appointments, retaining only so many as might supply the probable vacancies which would occur within the year. The number of promotions to the army from this corps, for the last five years, has averaged about twenty-two; while the number of graduates for the same period has been at an average of forty. This excess, which is annually increasing, has placed eighty-seven in waiting until vacancies shall take place; and shows that, in the next year probably, and in the succeeding one certainly, there will be an excess beyond what the existing law authorizes to be commissioned. There will then be one hundred and six supernumerary brevet second lieutenants appurtenant to the army, at an annual expense to the Government of eighty thousand dollars.”

Now, sir, I put the question to the members of this House, and to the Secretary of War, does the country need these supernumerary officers in time of peace? Does it comport with a sound and practical economy to maintain, at an annual expense of eighty thousand dollars, one hundred and six young men, whose services are not needed by the Government? I say not needed, if you will keep the officers of companies at their posts, if you will not withdraw the captains of companies from the performance of service in the line, and attach them to the staff. These supernumeraries are annually increasing. Thirty-three more are to be added next June—what will you do with them? Of what service to the country are they? For one, I say, dismiss them; let them go home, and, if they cannot do better, go to work.

There is, sir, one other proposition in the resolution, about which I feel much solicitude, and will add a few remarks. Under the present regulations of the army, and by consequence of this supernumerary corps of second lieutenants by brevet, the power of the President to appoint an officer in the line of the army from and among the meritorious non-commissioned officers of the army, is taken away. Sir, no man can enter the army of his country, however well deserving and well qualified, unless he shall have been so fortunate as to have received a diploma at West Point. I would leave the Executive at liberty to seek talents and reward merit by appointments to subaltern officers in the army, wherever he can find them. At present, sir, no matter what may be the merits and qualifications of a non-commissioned officer, no matter what may have been his deeds of valor and daring, promotion to him (the highest reward of the soldier) is denied by the laws of that country he so gallantly defends. If you cut off all hope from the non-commissioned officers of the army, you will, in time, destroy its moral force. I believe it has had a tendency, a very powerful tendency, to lessen its physical force.

We have felt the effects, and witnessed the losses both of men and money, by desertion from the army. Many and various have been the causes assigned for this practice, and as multifarious have been the remedies proposed. My reflections, sir, have taught me to believe that one great cause of the increase of this evil may be fairly traced to the practice of taking the captains from their appropriate service at the head of their companies, and conferring upon them staff appointments, and of the want of a power in the Executive to reward, by promotion, the meritorious of the non-commissioned officers of the army. Every man who knows any thing of the actual service, must admit the importance of so inconsiderable an officer as the orderly sergeant of a company. In my estimation he ranks in real utility and efficiency, in the promotion of order, and the diffusion of a correct military and moral feeling among the soldiers, next to the captain. No company is

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well commanded, well disciplined, unless both of these officers are talented and efficient within the sphere of their duty. How important is it, then, that your non-commissioned officers should be men of correct moral habits, possessing a military feeling and spirit. These you will not have, under your present regulation. They have not that strong incentive to action, that powerful stimulus to the military man, the hope of promotion, to propel them in the discharge of their duty. They are content if they so demean themselves as to escape censure or punishment, and leave the men to the government of their own idle and dissipated passions; thus destroying what I call the moral force of the rank and file of your army; and desertion and crime are the inevitable consequences. Some of our best company officers, during the late war, had the honor—I call it an honor, sir—of having been promoted from the ranks of the army. They fought for their commissions, won them, and did not disgrace the late war. Ours, I believe, sir, is the only country at this time with which I have any acquaintance, where the avenue to promotion is blocked, eternally blocked, by a corps of supernumerary officers.

There are other subjects of much importance, embraced in the resolution, about which I forbear to say any thing at this time. I have made these suggestions, and hope they will lead others, and particularly the Committee on Military Affairs, to a minute investigation. I take the hint recently given, and now propose a measure of real re-trenchment and reform; and I hope we shall meet with no opposition from a quarter where I think them so much needed.

Mr. DRAYTON said that the fact stated by the gentleman from Kentucky, [Mr. WICKLIFFE,] that eighty thousand dollars were appropriated for the pay and emoluments of brevet second lieutenants, was certainly correct; but that these officers performed no duties, and rendered no services, was erroneously stated. They performed all the duties, and rendered all the services, of second lieutenants in the line: why, then, shall they not be entitled to the same compensation? So far from their not performing the duties appropriate to their rank, it appeared from a document submitted to this House at its last session, that, in a recent expedition against the Pawnees and other Indians, one of them commanded a company. When brevet second lieutenants acted in this capacity, could it with propriety be said that the public money was uselessly lavished upon them? Brevet second lieutenants, who had graduated at West Point, were annexed to the army, by the positive provision of a law, with the restriction that their appointments should not exceed one to each company in the service, by which not more than one hundred and six could receive commissions.

With respect to the Military Academy, he agreed with the gentleman from Kentucky, that the number of cadets now educated there was beyond the wants of the army, or would soon be so. There are now eighty-seven brevet second lieutenants; and it was probable, after the next promotion of the cadets from the first class, that the whole number of one hundred and six would be annexed to the several regiments. As to that part of the gentleman's resolution which related to West Point, he [Mr. D.] had anticipated the object of the gentleman, by submitting a resolution, calling upon the Secretary to inform this House whether the number of cadets educated at the Military Academy was not excessive, when compared with the purposes for which that institution was established; and, if such should be the case, to report a plan for their reduction, and an organization corresponding with such alterations as might be necessary. He [Mr. D.] had moved this resolution for the information of the committee, of which he was a member; and that committee, upon receiving the report of the Secretary of War, would doubtless act upon it. Mr. D. observed, that he did not think

the number of officers at present in the army exceeded the wants of the service. In proof of this, he referred gentlemen to the Register, which would show that scarcely a single company had its complement of officers upon duty with it. If officers are taken from the line for the staff, these deficiencies of company officers must exist, unless a new military organization should be adopted. If, by this organization, officers transferred to the staff vacated their commissions in the line, as these vacancies must be supplied, the number of the officers would be increased instead of being diminished, unless the number of officers to a company should be reduced, which he believed would be impolitic and injurious.

Whether it would be expedient, in order to prevent desertion, or to infuse a spirit of emulation into the non-commissioned officers, to hold out to them the prospect of commissions, was a proposition to which he [Mr. D.] had not particularly turned his attention. However this might be, as the President could not create officers of the army, but only appoint them, when authorized by law, as by law he was to appoint the cadets, after they had graduated to the number of one hundred and six, constituting all who could be added to the army, the existing legislation must be altered, before a power could be vested in the President to promote non-commissioned officers, or to confer commissions upon any other persons than the cadets. Mr. D. added, that he had not risen for the purpose of entering into an argument upon the subjects contained in the resolution, but merely to correct some misconceptions which, it seemed to him, the gentleman from Kentucky labored under. When that resolution came before the Committee on Military Affairs, he should have the opportunity to examine the several topics which it embraced.

Mr. WICKLIFFE rejoined. I was well apprised, said he, of the fact that these eighty-seven supernumerary second lieutenants were, in theory and in name, attached to the army, and that some of them did actually perform duty; but, sir, where were the captains, the first and second lieutenants of the companies? If they had been at their post, they could have performed the service assigned to these junior subalterns. If you take the captains and make staff officers of them, and give the command of companies to these young, (and without meaning any the slightest reflection upon them) inexperienced officers, you do affect essentially the organization, harmony, and efficiency of the army.

When a captain quits the command of a company, and seeks a staff appointment, he is governed by one of two motives, (perhaps both,) either to avoid the fatigue, labor, and hardships of doing duty in the line, or to obtain an increase of his pay. He should then lose his rank in the line, and allow others, who will remain and perform duty, to rise. Do this, and you will promote the moral force of the army. You will promote harmony and good feeling, and destroy that jealousy which this practice ever engenders, so baneful in its effects. I am pleased to learn that the honorable chairman of the Committee on Military Affairs [Mr. DRAYTON] agrees with me that the number of students at West Point should be reduced. The main and principal object Mr. Jefferson had in view in the establishment of that institution, seems to have been lost sight of. Instead of its now being a school for the purposes of the army only, it has become a free national academy. After the students of that academy receive their education at public expense, and paid for it too at the rate of sixteen dollars per month, three out of four of them return to their homes and pursue some profession. If we are to have a national university, let us establish it at once, and not avoid the provisions of the constitution, by using the means of raising and supporting an army, to the promotion of education by the Federal Government. I desire these things to be understood by

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the people; and when understood, if they are willing to educate at public expense, and pay them for it, two hundred and fifty young men, annually selected as the students of West Point Academy ever have and ever will be, then I am content.

The hour of twelve having arrived, a motion was made, and prevailed, for the House to go into committee, for the purpose of attending the

#### TRIAL OF JUDGE PECK.

The House accordingly resolved itself into a Committee of the Whole, Mr. MARTIN being called to the chair, and proceeded to the Senate.

At three o'clock the Committee of the Whole returned, and the SPEAKER resumed the chair.

#### RELIEF VESSELS.

Mr. CAMBRELENG (pursuant to notice which he gave in the morning) moved that the House go into committee on the bill from the Senate, to authorize the employment of certain relief vessels, and appropriating \$15,000 therefor.

Mr. WICKLIFFE thought this a bill that ought not to pass without discussion; and as it was late, and the House thin, he moved an adjournment.

The question was put, and a majority voted against adjourning; but there appearing no quorum,

The House adjourned.

THURSDAY, JANUARY 20.

#### MILEAGE OF MEMBERS OF CONGRESS.

Mr. HALL, from the Committee on Public Expenditures, reported the following bill; which was twice read:

*"Be it enacted, &c.* That it shall be the duty of the Secretary of the Senate and Sergeant-at-arms of the House of Representatives, with the aid of the Postmaster General, at the end of every session of Congress, to make an estimate, as nearly as possible, of the actual distance, in a direct line, of the residence of each member of the Senate, House of Representatives, and delegate of a territory, from the seat of Government; and that the mileage of members of Congress and delegates be computed, and their accounts for travelling be settled, according to such estimate."

Mr. CHILTON proposed to add to the bill the following section:

*"And be it further enacted,* That, from and after the passage of this act, the pay of members of the Senate, House of Representatives, and delegates of territories, shall be at the rate of six dollars per day for each day's attendance on the business of the Senate or House of Representatives; and six dollars for every twenty miles' travel to and from the seat of Government, estimated according to the rule established in this act."

Mr. CHILTON did not intend to say one word on this amendment, unless called on by some member of the House for explanation. He was desirous that each member of the amendment should stand on its own individual merits; and for that purpose he would move a division of the question. The proposition to limit the charge for mileage to six dollars for every twenty miles, he had no doubt would meet the approbation of all.

Mr. SPEIGHT expressed his regret that this motion was made, the effect of which would only be to embarrass the main question. In the shape of an original, separate proposition, he should be willing to support it; but the House had already spent too much time in debating about the mileage, and it was time that that subject should be disposed of.

Mr. CHILTON begged leave to state to the gentleman from North Carolina, [Mr. SPEIGHT,] that it was not with

the intention of embarrassing the bill that he had made the proposition to amend.

[Mr. SPEIGHT here denied having charged him with that intention; he had stated that, in his opinion, such would be the effect of his amendment.]

Mr. CHILTON continued. He thought that the amendment should be adopted; that it was calculated to subvert the public interests. It was true, when he first introduced this measure of retrenchment, he was not as well acquainted with matters and things as he now is; but he was still of the opinion that, by proper economy, six dollars per diem would be an adequate compensation; but, at all events, such has been the improvements in the mode of travelling by stages and steamboats, that all, he presumed, would admit six dollars for every twenty miles actually travelled would be ample compensation. Twenty miles was not a day's journey on horseback; indeed, forty miles was a moderate day's journey. It could not, therefore, be doubted, that six dollars would be sufficient for all the expenses incurred in travelling twenty miles in any part of the country. While the present law exists, he would receive the pay which it allowed, and no more; but he had pledged himself to his constituents to endeavor to repeal this law, and to retrench this branch of public expenditure; and like all pledges that he made, he would use every exertion to redeem. When he had done so, he felt that he had done his duty to his conscience, his constituents, and his country. In charging mileage, he said it would appear that each branch of the National Legislature had exceeded the respective distances when computed on the nearest mail route, with, perhaps, only thirteen exceptions.

He charged, however, no improper intention to any member, but was inclined to believe that others, like himself, had inadvertently been guided by former charges and calculations of distance.

Mr. YANCEY, of Kentucky, said he hoped that the amendment, which proposes to reduce the pay of the members of Congress to six dollars per day, and six dollars for every twenty miles' travel in going to and from the seat of Government, will be adopted, and that we shall not talk so much about retrenchment and reducing expenses, and give so little proof of being in reality, by our actions. I am surprised to hear the gentleman from North Carolina say that he will vote for the reduction contemplated in this amendment, if in a separate bill, but will not when united with this; I consider, sir, that both measures are right, and consequently should pass, either conjointly or separately. I, sir, have given pledges to my constituents, which were elicited by their interrogatories propounded to me, that I would endeavor to effect the reduction asked for in this amendment, and I was much gratified that the question was asked me, if I would be for reducing, because it gave me an opportunity to manifest my willingness to promote a measure of economy, which I was and am sincerely in favor of; and, sir, I should be glad that my views on public measures corresponded with that of gentlemen in this House. But when the sovereign people whom I represent wish a measure, I, with great pleasure, advocate and support their will, whether it is agreeable to this House or not; and, sir, I should wish the stentorian voice of an indignant people to speak into insignificance and retirement, and that, too, in strains of thunder, that representative who would dare to violate the known will of the people. Sir, it is the very vital principle of republics, that the will of the majority shall prevail, and none will dare assert, here or elsewhere, that the sovereign people of this land are not capable of wise self-government; and as the people whom I have the honor to represent, will, as they have a right to do, demand of me a faithful redemption of my pledges, I trust, sir, that my conduct on this occasion will meet their approbation, which is what I and every

member ought ardently to aspire to. Sir, we talk a great deal of trying to bring our ship of State back to its republican tack. Now that we have a good and democratic statesman at the helm, let us march boldly to the mark, and not flinch when there is an effort made to reduce unnecessary expenses; and as we have the fixing our own compensation, and as the six dollars would be what it was in the good old halcyon days of pure republicanism, when the great Washington was in the Presidential chair, and the illustrious Jefferson, his right hand man, was Secretary of State, that compensation was deemed sufficient, and now that we are aiming to get back to good old times, let us demonstrate by our actions that our professions of economy are sincere. As I said before, sir, as we are the only people that can fix and reduce our wages, and as I verily believe them too high, let us not make an ostentatious display of frugality and economy in our public expenses; and when a reduction of what I deem extravagant, is so perfectly tangible in our power, let us show that our professions of retrenchment are not a mere empty sound.

Mr. CARSON said that, for his own part, he had nothing to do with the motives of the gentleman from Kentucky, in submitting his amendment; neither had he any concern respecting the pledge which that member had given to his constituents, or to the redemption of that pledge as had been promised. A statement had been made, that, with the exception of fourteen cases, all the other charges for mileage had been overrated. This statement is erroneous. I had occasion during the last session to correct a similar statement. The gentleman from Kentucky has no doubt been led into the error by the incorrect calculations of the Post Office Department, to which he has referred, and upon this he has indirectly censured the whole Congress, with the exception of one Senator, and thirteen members. Now, sir, according to the post office statement, the difference between the post office of my colleague, [Mr. CONNER,] (Brutus Fords post office,) and mine, (Pleasant Gardens,) is only three and a half miles, when, in fact, the distance is near eighty. It is insufferable, sir, that such censure should be thrown out upon such false premises. I only rise to correct this error, so far as myself and colleague are concerned.

Mr. C. concluded by calling for the previous question; and the call being sustained,

The main question (which precludes or puts aside amendments) was then taken, and the bill was ordered to be engrossed for a third reading to-morrow.

#### RELIEF VESSELS.

Mr. CAMBRELENG rose to renew the motion which he made yesterday to go into Committee of the Whole, and take up the bill from the Senate to empower the President of the United States to send relief vessels on our maritime coast. He said the measure proposed was an act of humanity, and called for a speedy decision by the House. Whatever might be its opinion, he hoped the bill would now be considered.

In order to go into Committee of the Whole, it became necessary to suspend the different orders of the day, which required a vote of two-thirds of the members present.

The question being put on the suspension, it was decided in the negative—yeas 103, nays 59.

#### MILITARY ACADEMY.

The resolution yesterday submitted by Mr. WICKLIFFE was then taken up.

Mr. DRAYTON was entitled to the floor; but, as the hour had nearly elapsed for the consideration of resolutions, he declined making the remarks which he intended to have done to correct the errors into which the gentleman from Kentucky had fallen, and said he would content himself with moving for a division of the question, so

as to take the sense of the House on the first member of the resolution:

The question being put, the first paragraph of the resolution was agreed to, as follows:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of dismissing from the army the supernumerary lieutenants by brevet commission."

The question was then taken on agreeing to the remainder of the resolution, and was also agreed to, in the following form:

"That the committee also inquire into the expediency of fixing the age between seventeen and twenty-one years as the period of admission into the West Point Academy; and that all the graduates, from time to time, at that institution, shall be discharged from the army when not needed in the actual service of the country.

"That they inquire into the expediency of authorizing appointments in the line of the army from the meritorious non-commissioned officers of the army.

"And, also, of reducing the number of cadets in said academy, now authorized by law."

Mr. LEIPER laid on the table the following:

*Resolved*, That the Postmaster General be requested to communicate to this House the causes of the irregularity of the arrival of the Eastern mail; to what the failure is attributable; and what remedy can be provided to prevent this delay.

In submitting the foregoing resolution,

Mr. LEIPER said he begged leave to be explicitly understood that, in offering this resolution to the House, he did not, in the remotest manner, intend to convey any censure, or attach any blame to the Postmaster General, or the contractors on this mail route. A report was made to this House on the 12th day of February, 1827, by the predecessor of Mr. Barry; his wish now was to elicit any new information the department could present touching a subject which was one of considerable public interest. [The resolution was adopted on the following day.]

#### THE IMPEACHMENT.

The House then resolved itself into a Committee of the Whole, and proceeded to the Senate, to attend the trial of the impeachment of Judge Peck. Having returned, the committee reported progress, and

The House adjourned.

FRIDAY, JANUARY 21.

#### MILEAGE OF MEMBERS.

The engrossed bill "to establish a uniform mode of computing the mileage of members of Congress, and delegates from territories," was read the third time; and the question being stated on its passage,

Mr. CHILTON required the yeas and nays on the question, and they were ordered by the House.

Mr. TUCKER requested information as to the time when the bill, if it passed, would take effect. He presumed not till the next session of Congress; in which case, he should be averse to passing the bill.

The SPEAKER replied that, if the bill should pass, it would take effect upon the present Congress.

Mr. TUCKER withdrew his opposition; and

The question was then put on the passage of the bill, and was determined in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Armstrong, Arnold, John S. Barbour, Baylor, Bell, James Blair, John Blair, Bockee, Boon, Borst, Bouldin, Brodhead, Cahoon, Cambreleng, Campbell, Chandler, Chilton, Claiborne, Clay, Coke, Cooper, Crawford, Creighton, Crocheron, Daniel, Davenport, John Davis, Deberry, Denny, Desha, De Witt, Doddridge, Dorsey, Draper, Drayton, Duncan, Dwight, Eager, Earll, Horace



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Pay of Members.—The Judiciary.

[JAN. 22, 24, 25, 1831.]

Everett, Findlay, Ford, Foster, Fry, Gaither, Gilmore, Gordon, Green, Hall, Halsey, Hodges, Holland, Hoffman, Howard, Ihrie, Ingersoll, Irwin, Jarvis, Johns, Cave Johnson, Kincaid, Lamar, Lea, Leavitt, Lecompte, Lent, Letcher, Lewis, Loyall, Lumpkin, Lyon, Magee, Mallary, Martin, Thomas Maxwell, Lewis Maxwell, McCreery, McCoy, Mercer, Miller, Mitchell, Monell, Muhlenberg, Nuckolls, Overton, Patton, Pearce, Polk, Potter, Ramsey, Rencher, Richardson, Roane, Russel, Sanford, Scott, W. B. Shepard, A. H. Shepperd, Shields, Semmes, Smith, Speight, Spencer, Sprigg, Sutherland, Swann, Swift, Taylor, Test, Wiley Thompson, John Thomson, Tracy, Trezvant, Tucker, Verplanck, Washington, Wayne, Weeks, C. P. White, Wilde, Williams, Wingate, Yancey, Young.—129.

**NAYS.**—Messrs. Bailey, Barnwell, Crane, Crowninshield, Dickinson, Ellsworth, George Evans, Edward Everett, Finch, Grennell, Haynes, Hughes, Huntington, Jennings, Kendall, Kennon, Perkins King, Leiper, Martindale, McIntire, Pettis, Pierson, Rose, Henry R. Storrs, W. L. Storrs, Strong, Vance, Vinton, Whittlesey, Wilson.—30.

So the bill passed, and was sent to the Senate for concurrence.

The following joint resolution was read the third time: *Resolved, &c.* That the rules of each House shall be so amended, as to make it the imperative duty of the Secretary of the Senate and Sergeant-at-arms of the House of Representatives to ascertain, at the end of every session of Congress, from each Senator, member, or delegate from a territory, the number of days which he may have been absent from, and not in attendance upon, the business of the House; and, in settling the accounts of Senators, members, and delegates, there shall be deducted from the account, or amount of pay for each session, at the rate of eight dollars per day for every day any member of either House, or delegate, shall have been absent, except by order, on business of the House to which he belongs, or in consequence of sickness."

The question being upon its passage, a brief debate took place between Messrs. THOMPSON, of Georgia, HALL, GORMAN, SUTHERLAND, TUCKER, and DRAYTON, upon the form of the resolution, and its effect upon the rules, &c. Pending the remarks of the latter gentleman, a message was received from the Senate, informing the House that that body was now sitting as a court of impeachment: whereupon,

The House resolved itself into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the Senate, to attend the trial of Judge Peck. Having returned, the committee reported progress; and then

The House adjourned.

SATURDAY, JANUARY 22.

#### PAY OF MEMBERS.

The House having resumed the consideration of the joint resolution relative to the pay of members of Congress,

Mr. HALL moved to recommit the resolution to the Committee on Public Expenditures, with instructions to report a bill, providing—"That it shall be the imperative duty of the Secretary of the Senate and Sergeant-at-arms of the House of Representatives to ascertain, at the end of every session of Congress, from each member of Congress, or delegate from a territory, the number of days which he may have been absent from, and not in attendance upon, the business of the House; and, in settling the accounts of Senators, members, and delegates, there shall be deducted from the account, or amount of pay for each session, at the rate of eight dollars per day for every day any member of either House, or delegate, shall have been absent, except by order, on business of the House to which he belongs, or in consequence of sickness."

On this motion a debate of some length took place, in which Messrs. DRAYTON, SUTHERLAND, HALL, WHITTLESEY, CHILTON, and CARSON, engaged.

Mr. CARSON, as he said, in order to put the question to rest, and to put a stop to debate, moved to lay the resolution on the table.

On this motion Mr. CHILTON required the yeas and nays, and they were ordered accordingly by the House. Being taken, they stood—yeas 50, nays 135.

So the House refused to lay the subject on the table.

A message was received from the Senate, informing that that body was now sitting as a high court of impeachment: whereupon,

The House resolved itself into a Committee of the Whole, and proceeded to the Senate, to attend the trial of the impeachment of Judge Peck. Having returned, the committee reported progress; and

The House adjourned.

MONDAY, JANUARY 24.

#### THE JUDICIARY.

Mr. DAVIS, of South Carolina, from the Committee on the Judiciary, submitted a report from the majority of that committee, on the question of repealing the 25th section of the judiciary act of 1789, accompanied by a bill "to repeal the 25th section of the judiciary act of 4th September, 1789."

Mr. BUCHANAN, from the same committee, was desirous to present the report of the minority of the committee; but the SPEAKER stated that the question must first be put on the reading of the bill.

The bill was then read a first time, and a motion made for its second reading; when

Mr. BUCHANAN again moved for leave to present the report of the minority of the committee; but the Chair stated that, as the House could not entertain two motions at a time, that made by the gentleman from Pennsylvania was not now in order. He could have an opportunity hereafter to present the report.

Mr. DODDRIDGE moved the rejection of the bill, and on his motion demanded the yeas and nays.

The SPEAKER stated that the question would be on now giving the bill its second reading; and, if the House refused to order it to be read a second time, it would amount to a rejection of it.

On the motion to read a second time, Mr. DODDRIDGE demanded the yeas and nays: pending which demand,

A message was received from the Senate, informing that that body was now sitting as a high court of impeachment: whereupon,

The House then, on motion, resolved itself into a Committee of the Whole, and proceeded to the Senate, to attend the trial of the impeachment of Judge Peck. Having returned, the committee reported progress; and

The House adjourned.

TUESDAY, JANUARY 25.

#### THE JUDICIARY.

After disposing of a variety of morning business, the bill yesterday reported from the Committee on the Judiciary, "to repeal the 25th section of the judiciary act of 1789," was taken up—the question being on ordering the bill to a second reading.

Mr. DAVIS, of South Carolina, hoped the bill would be allowed now to be read the second time, and that it would be made the order of the day for Tuesday next; which motion he made.

The SPEAKER said the bill could not take that course, unless the gentleman from Virginia [Mr. DODDRIDGE] would consent to withdraw his opposition.

JAN. 25, 1830.]

*The Judiciary.*

[H. OF R.]

Mr. DODDRIDGE would not consent.

Mr. BUCHANAN addressed the House. He said the measure proposed was one of great importance, and he wished to give an opportunity for members of the House to express their opinions on it freely and fully, and that their remarks might be sent to the people. He was opposed to hasty legislation on important matters; but if the gentleman from Virginia would withdraw his opposition to the second reading, he would move to postpone the consideration of the bill to Tuesday next. Such a motion, he presumed, would not be in order now.

The SPEAKER—No. The Chair will read the rule of the House, for the information of gentlemen.

[The SPEAKER here read the rule, as follows:]

“The first reading of a bill shall be for information; and, if opposition be made to it, the question shall be, ‘Shall this bill be rejected?’ If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question.”

Mr. DODDRIDGE now consented to withdraw his opposition.

Mr. BATES inquired whether, if the consideration of the bill was postponed to Tuesday next, it could then be considered in Committee of the Whole.

The SPEAKER said, that, after the bill had been read a second time, it could go to a Committee of the Whole, or be otherwise disposed of, as the House might direct.

Mr. MARTIN said, the gentleman from Pennsylvania had expressed his willingness to have a free and full discussion of the subject, and the gentleman from Virginia had no desire to smother it. He [Mr. M.] had been listening for reasons why the bill should not take the ordinary course, but had heard none. The bill was one of vast importance; and he was also in favor of a free and full discussion. He should be sorry that the bill should take a course to prevent his hearing the views of gentlemen on the subject; and he was not sure that he should not take part in a discussion himself. He did not intend now, however, to commit himself.

Mr. BUCHANAN said he had no disposition, on this or any other occasion, to prevent the freest discussion of the matter before the House. It was for the purpose of assuring himself, on the contrary, that a question should be taken on this bill at the present session, that he had proposed its postponement to this day week. It would thus come up for consideration, as business of course, on that day. The bill will be, on that day, precisely in the situation in which it is at this moment. It will stand higher on the calendar than it would do were we now to refer it to a Committee of the Whole on the state of the Union. If, on that day, it should be thought an expedient course, the bill can then be referred to a Committee of the Whole on the state of the Union, as well as now. We all know that there are many subjects referred to the Committee of the Whole on the state of the Union, and we know that there is a vast mass of lumber there too. If this subject were referred to that committee, Mr. B. said, such an expression of the opinion of this House upon it, as is due to its importance, and must be expected by the nation, would not be obtained at the present session.

Mr. STORRS, of New York, asked whether the question upon the second reading or rejection of a bill was not a question open to discussion. [The SPEAKER answered that it was.] If so, said Mr. S., then the gentleman from South Carolina, and all others, would have as full opportunity as they desired to debate it, without referring it to a Committee of the Whole.

Mr. DODDRIDGE said that his objection to the second reading of the bill was prompted by the same motives as had influenced the course of the gentleman from Pennsylvania, viz. that he might have it in his power to debate and decide upon this bill. He gave way only to allow of the motion for postponement, and for no other purpose.

He should not have made the objection to the second reading, but that he might subject the bill to debate, intending himself fully to discuss it.

Mr. RAMSEY asked how this bill came to be reported. Was there any petition or any instruction to the committee to bring this subject now before the House? If the people of the United States do not ask us to do this thing, said he, we ought not to take it up at all.

Mr. DANIEL said that the Judiciary committee had been instructed, by a special resolution, to inquire into the expediency of repealing or modifying the 25th section of the judiciary act; and, on considering the subject, they had come to the resolution that it ought to be repealed. Mr. D. had no objection to the proposed postponement for a week, by which time every member would be prepared to express his opinion upon it, he supposed.

Mr. ARCHER said, if there was a majority of the House disposed to obtain a decision of this question, they could, at any time, get at it by going into a Committee of the Whole on the state of the Union, should it be referred, as he thought it ought to be, to that committee, where it could be more freely discussed than in the House. This mode of disposing of the bill, he thought, was better suited also to the gravity and importance of the question, than the other mode proposed.

Mr. MARTIN said he should not have risen again, but that the gentlemen from Virginia and Pennsylvania seemed to think that he was disposed to avoid a decision upon the bill at the present session. Mr. M. said he had no such wish. But he could not but say that it was a little remarkable that a bill of this importance should be disposed of in a mode different from the treatment of any other bill since he had had a seat on this floor. Was this the ordinary mode in which bills were opposed? The gentleman from Virginia had said that he had made the motion to reject this bill, because it was a debatable one. But certainly all would admit that, in Committee of the Whole, the discussion would be more full, more free, and over a wider field. If the opinion entertained by the gentleman from Virginia, on this subject, was common to a majority of the House, he could at any time obtain a vote to go into committee upon it. The gentleman shakes his head: but he can, at any time, move to go into committee on the state of the Union, because such a motion has preference over any other. On the other hand, the advocates of the bill will not shrink from the investigation of its object. They have no desire to avoid a decision upon it, and will unite with its opponents in bringing it on.

Mr. WICKLIFFE said that, as one member of the House, he should be very much gratified to have this subject discussed. But he wished to see the bill placed in such a situation as to allow of an amendment being offered to it, for a modification of the 25th section of the old law, which he should prefer to a total repeal of it. Let the bill be read a second time, said he, and then be postponed. When it should be again taken up, it would then be open to amendment.

Mr. DODDRIDGE said that he considered the measure proposed by this bill to be of as much importance as if it were a proposition to repeal the Union of these States; and for that reason he could not, with his consent, suffer it to take the course of an ordinary bill. If the House should overrule the proposition of the gentleman from Pennsylvania, Mr. D. said he should then renew opposition to the second reading of the bill.

Mr. ELLSWORTH said that he should regret any delay by this House of a decision upon a question so momentous as this. It was because of its overwhelming magnitude that he would have it acted upon forthwith. He did not believe that there was a gentleman within hearing of his voice, who had, at this moment, any doubt upon

H. OF R.]

*Judge Peck.—Duties on Iron.—Militia of the District.*

[JAN. 26, 1831.]

his own mind as to what his vote would be on this question. It seemed desirable to him, in every view, that this question should be at once decided.

Mr. JOHNSON, of Kentucky, said he should vote in favor of postponement.

[Here the hour for morning business expired.]

By leave of the House, Mr. BUCHANAN then presented the report of the minority of the Judiciary committee against the measure proposed, and that, together with the report of the majority of the committee, were ordered to be printed.

#### JUDGE PECK.

The hour of twelve was here announced by the Chair, and the House, in Committee of the Whole, Mr. MARTIN at its head, proceeded to attend the high court of impeachment. Having returned, the committee reported progress; and

The House adjourned.

WEDNESDAY, JANUARY 26.

#### DUTIES ON IRON.

The SPEAKER presented a memorial of citizens of the city and county of Philadelphia—mechanics, employed in various branches of the manufacture of iron, viz. steam engine makers, anchor and chain smiths, shipsmiths, machinists, founders, hardware manufacturers, edge tool makers, locksmiths, coach and wagon smiths, farriers, and blacksmiths, praying that such a modification of the existing tariff of duties on iron, as therein set forth, may be adopted; which memorial was, on motion, referred to the Committee on Manufactures.

#### MILITIA OF THE DISTRICT.

Mr. THOMPSON, of Georgia, from the Committee on the Militia, reported a bill "for the better organization of the militia of the District of Columbia;" which was twice read.

Mr. THOMPSON then said that this bill was, he believed, of an unexceptionable nature, and its provisions were much needed by the people of this District. Among other things, it proposes to authorize the Secretary of War to select places of depot for the preservation of the arms of the United States, placed in the hands of the militia, and to employ persons to take care of the same; but for these purposes it proposes no direct appropriation, though probably some expense might be the consequence. Under these circumstances, Mr. T. inquired of the Speaker whether the rules of the House would require that the bill should go through a Committee of the Whole. [The SPEAKER answered in the negative.] It was considered so important that something should be done on this subject, Mr. T. said, that he wished to have the bill go to a third reading without delay. The bill of the last session on this subject contained some provisions which gave some little disquietude to some of the citizens. A convention of officers of the militia had, however, examined this bill, and some alterations had been made, but he thought not material ones, which made the bill more acceptable to the people. He moved that the bill be engrossed, and ordered to be read a third time.

After a suggestion from the Chair, Mr. T. waived his motion, and the bill was made the special order of the day for Monday next, when the question will be upon ordering it to be engrossed.

#### DUTIES ON IRON.

Mr. SPEIGHT, of North Carolina, adverting to a memorial against the duty on iron, which had been this morning referred to the Committee on Manufactures, and alluding to the right of the people to petition this House, implying a right to a hearing upon their petition, said, that it was a well-known fact that a large proportion of the

Committee on Manufactures was opposed to a reduction of the duties, not only upon iron, but upon every other article of import. Iron, he said, was an article of universal use and consumption; and when it was proposed to reduce the tax upon it, all the people were interested, and entitled to be heard without prejudice upon the subject. Seeing that the Committee on Manufactures had prejudged the case, he moved to reconsider the vote referring the petition to that committee, in order that it might be referred to the Committee of Ways and Means.

Mr. RAMSEY expressed his hope that the proposition would not be reconsidered. The petition had gone to the proper committee, raised for the express purpose of taking cognizance of matters of this kind. The gentleman from North Carolina had said it was wrong to refer a memorial upon any subject to a committee that had prejudged the case. Allow me to say, said Mr. R., that the Committee of Ways and Means has as much prejudged the case as the Committee on Manufactures. I cannot consent that this petition shall take any other direction than that which has already been given to it. The Committee on Manufactures is established by rule, and appointed by the Speaker expressly to take cognizance of such questions. The Committee of Ways and Means is established and appointed to devise the ways and means of bringing money into the treasury; and I have always thought it not the proper committee to send questions of this kind to. The Committee of Ways and Means ought not to take cognizance of such matters, unless specially sent to them; and, when so sent, they ought to move to be discharged from them, as not being within their province.

Mr. McDUFFIE (chairman of the Committee of Ways and Means) said that, in reference to the matter of prejudging the question, the two committees referred to were upon precisely the same footing. It was well known, he said, that the Committee of Ways and Means take one view of this subject, the Committee on Manufactures another. He understood the object of the honorable mover, however, to be, that the matter of the petition should be fairly investigated. He understood, moreover, that one of the petitioners, perhaps one of the most intelligent practical mechanics in the United States, is now here, with materials and evidence prepared to sustain his views before any committee to whom the memorial should be referred. All that Mr. McD. desired to understand, therefore, was, whether the Committee on Manufactures would give a fair hearing to the memorialists. If they would, he had no objection to the subject going to that committee.

Mr. MALLARY (chairman of the Committee on Manufactures) referred to the rules of the House for the appointing of committees, and the specification of their duties. He remarked, however, that, when particular subjects were referred to committees, they might be in favor of a part of them, and have strong objections to other portions. The Speaker, in the appointment of committees, could not always know the sentiments of members, nor could he tell to what particular decision they would come on the matters referred to their consideration. The question seemed to be, what was the proper duties to be performed by the Committee on Manufactures. He [Mr. M.] was not disposed to prejudge the present case; he would say, nevertheless, that all matters referred to the committee of which he had the honor to be chairman, would receive the undivided attention of that committee; and he should take great pleasure, both as chairman of the committee and as a member of the House, if the subject now under consideration was referred to that committee, in directing his attention to it, and giving it the fullest possible investigation.

Mr. MILLER, of Pennsylvania, made a few observations against the reconsideration. He had no doubt, when

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Compensation of Members.—Judge Peck.

[H. OF R.]

the House was disposed to act upon the subject, it would do so without considering whether any proposition concerning it came from one committee or another. For himself, he was opposed to the measure proposed, by whatever committee it might be recommended; and he still continued to think that the Committee on Manufactures was the committee to which it had been properly referred.

Mr. CAMBRELENG, of New York, said, after the declaration made by the gentleman at the head of the Committee on Manufactures, that the subject would be fully investigated before that committee, he hoped the gentleman from North Carolina would withdraw his motion. This, Mr. C. said, was one of the most important subjects ever presented to this House; and a proper investigation into it would show how imperfect is this tariff of ours, which had been said to be one of the most perfect in the world. These petitioners tell you that they are taxed twice the value of their manufacture, and that they must be prostrated unless they get some relief from you. It is thus seen how important is this inquiry.

Mr. HUNTINGTON, of Connecticut, said that this was not the time to determine whether the complaint of the memorialists be or be not well founded. But it would be recollected that at the commencement of the session this whole subject had been referred to the standing Committee on Manufactures, from whom the effect of the proposed reference to another committee would be to take it away. This, he thought, was not a usual if a decorous procedure. The subject would, he had no doubt, receive, before the standing committee, a full and fair investigation.

Mr. J. S. BARBOUR, of Virginia; (one of the members of the Committee on Manufactures,) took this occasion to say that, as was known to the House, a report had been made from that committee, and a counter report had been presented by the minority. With the greatest respect for the gentlemen composing these two divisions of the committee, he begged leave here to say that he dissented both from the majority and the minority.

Mr. SPEIGHT then rose, and, in consequence of what had fallen from the members of the Committee on Manufactures, withdrew his motion for reconsideration.

#### COMPENSATION OF MEMBERS.

The House then resumed the consideration of the joint resolution "relative to the pay of members of Congress;" together with the instructions proposed to be sent to the Committee on Public Expenditures when that resolution was last under consideration.

Mr. SUTHERLAND said a few words in explanation of what had fallen from him on a preceding day; when

Mr. HALL proposed a modification of the instructions, by adding to them a proviso that the bill, as proposed, should not have a retroactive operation.

Mr. HOFFMAN was opposed to the recommitment of the resolution, and called for the yeas and nays on the question.

[Here the hour for morning business expired.]

On motion of Mr. SPENCER, of New York, three thousand additional copies of the report of the Secretary of the Treasury on the subject of the cultivation of sugar cane, and the manufacture of brown sugar, recently transmitted to Congress, were ordered to be printed.

#### JUDGE PECK.

The House then resolved itself into a Committee of the Whole, Mr. MAURIN in the chair, and proceeded to attend the trial before the high court of impeachment. Having returned, the committee reported progress; and The House adjourned.

THURSDAY, JANUARY 27.

#### COMPENSATION OF MEMBERS OF CONGRESS.

The House then resumed the consideration of the joint resolution "relative to the pay of members of Congress," together with the motion to recommit the resolution to the Committee on Public Expenditures, with certain instructions.

The yeas and nays were yesterday called for by Mr. HOFFMAN, on the question; but this day the House refused to order them.

After some discussion, the previous question was demanded, and the demand was sustained by the House. [The effect of the previous question was to supersede the motion for recommitment with instructions, and bring the question directly before the House on the passage of the joint resolution.]

The main question being put in the following form: "Shall the joint resolution pass?" it was determined in the affirmative, as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Armstrong, Arnold, Noyes Barber, Barnwell, Bartley, Bates, Baylor, Beckman, J. Blair, Bockee, Boon, Borst, Bouldin, Brodhead, Brown, Burges, Butman, Cahoon, Cambreleng, Campbell, Carson, Chandler, Chilton, Claiborne, Clay, Condict, Conner, Cooper, Cowles, Craig, Crane, Crawford, Crockett, Creighton, Croche-ron, Daniel, Davenport, W. R. Davis, Deberry, Denny, Desha, De Witt, Dickinson, Doddridge, Dorsey, Draper, Drayton, Duncan, Dwight, Eager, Earll, Ellsworth, G. Evans, Horace Everett, Findlay, Finch, Ford, Forward, Foster, Fry, Gordon, Green, Hall, Hammons, Harvey, Hawkins, Haynes, Hodges, Holland, Hoffman, Hubbard, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, Jarvis, R. M. Johnson, Cave Johnson, Kendall, Kennon, Kincaid, Perkins King, Lamar, Lea, Leavitt, Lecompte, Lent, Letcher, Loyall, Lumpkin, Lyon, Magee, Mallary, Martindale, Martin, Thomas Maxwell, Lewis Maxwell, McCreery, McCoy, Mercer, Mitchell, Monell, Muhlenberg, Nuckolls, Overton, Pettis, Polk, Potter, Powers, Ramsay, Rencher, Richardson, Roane, Russel, Scott, William B. Shepard, Aug. H. Shepperd, Shields, Sill, Smith, Speight, Ambrose Spencer, Richard Spencer, Stanbery, Standefer, Sterigere, Stephens, William L. Storrs, Strong, Swann, Swift, Taliaferro, Taylor, Test, Wiley Thompson, J. Thomson, Tracy, Trezvant, Tucker, Vance, Varnum, Verplanck, Wayne, Weeks, Whittlesey, C. P. White, Wickliffe, Wilde, Williams, Wilson, Wingate, Yancey, Young.—159.

NAYS.—Messrs. John S. Barbour, Coleman, Crowninshield, Edward Everett, Gaither, Gorham, Grennell, Gurley, Hinds, Hughes, Leiper, Miller, Norton, Patton, Pierson, Rose, Sprigg, Henry R. Storrs, Sutherland, Vinton, Edward D. White.—21.

So the resolution was passed, and sent to the Senate for concurrence, in the following form:

*Resolved by the Senate and House of Representatives,* That the rules of each House shall be so amended as that it shall be the imperative duty of the Secretary of the Senate and Sergeant-at-arms of the House of Representatives to ascertain, at the end of every session of Congress, from each member of Congress, or delegate from a territory, the number of days which he may have been absent from, and, not in attendance upon, the business of the House; and in settling the accounts of the Senators, members, and delegates, there shall be deducted from the account, or amount of pay for each session, at the rate of eight dollars per day for every day any member of either House, or delegate, shall have been absent, except by order, on business of the House to which he belongs, or in consequence of sickness."

H. or R.] *Lands between Ludlow and Roberts' lines.—Surplus Revenue.—Expenses of Impeachment.* [JAN. 28, 1831.]

# LANDS BETWEEN LUDLOW & ROBERTS' LINES.

The House then, on motion of Mr. STERIGERE, went into Committee of the Whole, Mr. HOWARD in the chair, and took up the bill from the Senate, to "amend an act to quiet the title of certain purchasers of lands between the lines of Ludlow and Roberts, in the State of Ohio," together with certain amendments proposed by the Committee on Private Land Claims.

[This subject has been long before Congress, and the debate on the merits of the case repeatedly published in the *Intelligencer*. General McArthur and Philip Doddridge, as agents for others, were the owners of certain lands between the lines of Ludlow and Roberts, in the State of Ohio. These lands had been sold to other individuals by the United States, believing them to be a part of the national domain, and the proceeds were paid into the treasury. Under this state of things, Doddridge had commenced suit against the purchasers, and the United States made themselves defendants in the case. In the Supreme Court, a decision was made in favor of Doddridge. After that decision, Congress passed an act for the survey of the lands, and authorizing the appointment of commissioners to appraise their value. When their report was made, the President of the United States was authorized to treat with McArthur and Doddridge for a settlement of their claims, in order to quiet the titles of those who had purchased from the United States. McArthur agreed to receive for his lands the valuation fixed by the appraisers. Doddridge demanded the same sum, with interest, that had been paid into the treasury. An act had passed Congress, at the last session, appropriating a sum of money for quieting these titles; and the bill at present reported was to make a further appropriation, to the use of Mr. Doddridge, for one of the surveys, which he had already ceded to the United States, but for which the act before named did not make sufficient compensation.]

A debate of some duration took place between Messrs. STERIGERE, MCCOY, WICKLIFFE, VINTON, and PETTIS. It consisted chiefly, however, of explanations, and a statement of the principles on which the bill before the House was founded. Mr. STERIGERE moved that the proposed amendments be rejected.

Mr. TREZVANT had risen to speak, when

A message was received from the Senate.

The SPEAKER immediately took the chair, and the Secretary of the Senate announced that that body was now sitting as a high court of impeachment.

## JUDGE PECK.

The House then went into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the Senate chamber, to attend the high court of impeachment sitting for the trial of Judge Peck.

Having returned, and reported progress,

The House again resumed, in Committee of the Whole, the bill which was before that committee in the morning relative to lands between Ludlow and Roberts' lines: without continuing the debate, the committee rose, and reported progress, and had leave to sit again.

FRIDAY, JANUARY 28.

## SURPLUS REVENUE.

Mr. POLK, from the select committee to which was referred so much of the message of the President of the United States, at the commencement of the session, as relates to the distribution of the surplus revenue, made a report, [see Appendix:] which was ordered to lie on the table.

A motion was made to print 6,000 copies of the report; which motion lies one day on the table.

Mr. WHITE, of New York, moved for the printing of 3,000 copies of the reports of the majority and minority

of the Committee on the Judiciary, relative to repealing the twenty-fifth section of the judiciary law of 1789; which motion lies one day.

## THE JUDICIARY.

Mr. LECOMPTE submitted the following:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of amending the constitution of the United States, so that the judges of the Supreme Court and of the inferior courts shall hold their respective offices for a term of years.

Mr. WHITTLESEY demanded the question of consideration, and

Mr. VANCE called for the yeas and nays on the question.

They were ordered by the House, and, being taken, stood as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Angel, Baylor, Bell, James Blair, John Blair, Boon, Cambreleng, Carson, Chandler, Chilton, Claiborne, Conner, Crocherson, Warren R. Davis, Desha, De Witt, Earle, Findlay, Foster, Fry, Gordon, Hall, Halsey, Harvey, Haynes, Hinds, Thomas Irwin, Jarvis, Cave Johnson, Perkins King, Adam King, Lamar, Lea, Leavitt, Lecompte, Lewis, Lumpkin, McCreery, McCoy, Miller, Nuckolls, Pettis, Potter, Richardson, Roane, Scott, Shields, Standefer, Sterigere, Wiley Thompson, John Thomson, Tucker, Wayne, Weeks, Wickliffe, Yancey.—61.

NAYS.—Messrs. Anderson, Archer, Armstrong, Arnold, Noyes Barber, John S. Barbour, Barnwell, Barringer, Bartley, Beekman, Bouldin, Brodhead, Brown, Burges, Butman, Cahoon, Clay, Condict, Cooper, Coulter, Cowles, Craig, Crane, Crawford, Crockett, Creighton, Crowninshield, Davenport, John Davis, Deberry, Denny, Doddridge, Dorsey, Draper, Drayton, Duncan, Dwight, Eager, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Finch, Forward, Gilmore, Gorham, Green, Grennell, Hemphill, Hodges, Holland, Hoffman, Howard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Johns, Kendall, Kennon, Kincaid, Leiper, Lent, Loyall, Mallory, Martindale, Martin, Thomas Maxwell, Lewis Maxwell, McDuffie, McIntire, Mitchell, Monnell, Muhlenberg, Norton, Patton, Pearce, Pierson, Polk, Ramsey, Reed, Rose, Russel, Sanford, Wm. B. Shepard, Aug. H. Shepperd, Sill, Smith, Speight, Ambrose Spencer, Richard Spencer, Stanbery, H. R. Storrs, W. L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, Trezvant, Vance, Varnum, Verplanck, Vinton, Washington, Whittlesey, C. P. White, E. D. White, Wilde, Williams, Wilson, Wingate, Young.—115.

So the House refused to consider the resolution.

## EXPENSES OF THE IMPEACHMENT.

Mr. ELLSWORTH stated that the witnesses attending on the trial of Judge Peck could not be discharged until they were paid. It was highly necessary, therefore, that the House should act upon the bill which he had reported this morning; and he moved to suspend the consideration of any other business on the table, for the purpose of taking up the bill to which he referred.

The motion was agreed to, and the House went into Committee of the Whole, Mr. DWIGHT in the chair, and took up the bill "making provision for the compensation of the witnesses, and other expenses attending the trial of Judge Peck," together with the amendments reported by the Committee on the Judiciary.

[The gross sum proposed to be appropriated by the Senate's bill, amounted to \$12,000; by the proposed amendments, that amount was increased to \$13,500.]

Mr. POLK said, the bill provided for the compensation of the witnesses, both on the part of the United States and the respondent. In all State prosecutions, the defendant always paid his own witnesses, and he thought the



JAN. 29, 1831.] *Lands between Ludlow and Roberts' lines.—Judge Peck.—The Judiciary.—Brown Sugar.* [H. of R.]

United States would do enough to compensate the witnesses on the part of the prosecution. He requested information as to what had been the usage in former cases of impeachment under this Government.

Mr. ELLSWORTH replied that, in the case of Judge Chase, the United States had paid the witnesses on both sides. He was not positive as to the other cases. He would remark, that it would tend to the utter ruin of any individual brought before the Senate of the United States for trial, if he were to be compelled to compensate his own witnesses. It was right and proper that the Government should pay all the witnesses attending trials of impeachments; and whether Judge Peck should or should not be cleared, it was obvious that, if he were to be compelled to pay his witnesses, he was a ruined man.

Mr. CARSON was in favor of the bill as proposed to be amended. He remarked, that if a precedent was now established, that the United States were not to pay witnesses on behalf of the persons accused in trials of impeachment, no future prosecution would take place, however aggravated might be the offence committed. No man would undertake it. There was no analogy between the ordinary trials in the States and a trial in the Senate of the United States. In the latter, witnesses had generally to be brought from a distance, often very great, as in the present case, and their detention here was both long and expensive. What possible chance was there, he would ask, that an individual could clear himself of an alleged crime, if he was obliged to pay his own witnesses? No man could clear himself, for no man could afford the expense. In his opinion, for the United States to refuse to pay witnesses in trials of the kind referred to, would amount to a positive denial of justice, &c.

The question was now demanded; and, being put on the amendments offered by the Judiciary committee, they were agreed to.

The committee then rose, and reported the bill as amended; the amendments were agreed to, and the bill ordered to be read a third time to-morrow.

#### LANDS BETWEEN LUDLOW & ROBERTS' LINES.

The House then resumed, in Committee of the Whole, the bill "to amend the act to quiet the title of purchasers of the public lands between the lines of Ludlow and Roberts, in the State of Ohio," Mr. HOWARD in the chair.

Some further conversation took place between Messrs. TREZVANT, WICKLIFFE, and VINTON, when the amendments proposed by the Committee on Private Land Claims were disagreed to, and the committee rose, and reported the bill to the House.

The House concurred with the Committee of the Whole in rejecting the proposed amendments, and the bill was ordered to be read a third time to-morrow.

#### JUDGE PECK.

The hour of 12 having arrived, the House again resolved itself into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the Senate, to attend, before the high court of impeachment, the trial of Judge Peck. Having returned, and reported progress,

The House adjourned.

SATURDAY, JANUARY 29.

#### THE JUDICIARY.

The bill to repeal the 25th section of the judiciary act, passed on the 4th September, 1789, coming up as the first business of the morning, the question being on the motion of Mr. BUCHANAN to postpone the motion that the bill be read a second time to Tuesday next—

Mr. CRAWFORD rose, and, after a few remarks, demanded the previous question; which was the motion of Mr. DONNING that the bill be rejected.

The demand was sustained by the House—yeas 81, nays 69.

The question was then put, "Shall the main question be now put?"

And it was determined in the affirmative—yeas 75, nays 68.

Mr. CRAWFORD moved for a call of the House—which motion prevailed; when it was ascertained that there were one hundred and seventy-one members present.

Mr. MERCER then moved to dispense with further proceedings in the call; but the motion was negative.

The names of absentees on the first call were then called over a second time. Several of them answered to their names, and excuses were made for others; one hundred and eighty-three members were now ascertained to be present.

The doors were then closed; when,

On motion of Mr. DWIGHT, further proceedings in the call were suspended.

The main question was then put, viz. "Shall the bill be rejected?"

And it was determined in the affirmative, as follows:

YEAS.—Messrs. Anderson, Armstrong, Arnold, Bailey, Noyes Barber, John S. Barbour, Barringer, Bartley, Bates, Baylor, Beekman, John Blair, Bockee, Boon, Borst, Brodhead, Brown, Buchanan, Burges, Butman, Cahoon, Chilton, Clark, Condict, Cooper, Coulter, Cowles, Craig, Crane, Crawford, Crockett, Creighton, Crocheron, Crowninshield, John Davis, Deberry, Denny, De Witt, Dickinson, Doddridge, Dorsey, Drayton, Dwight, Eager, Earll, Ellsworth, G. Evans, Joshua Evans, Edward Everett, Findlay, Finch, Forward, Fry, Gilmore, Gorham, Green, Grennell, Gurley, Halsey, Hemphill, Hodges, Holland, Hoffman, Howard, Hubbard, Hughes, Hunt, Huntington, Ibric, Ingersoll, Thomas Irwin, William W. Irvin, Johns, Cave Johnson, Kendall, Kennon, Kincaid, Perkins King, Adam King, Leavitt, Leiper, Lent, Letcher, Magee, Mallary, Martindale, Lewis Maxwell, McCreery, McDuffie, McIntire, Mercer, Miller, Mitchell, Monell, Muhlenberg, Norton, Pearce, Pierson, Powers, Reed, Richardson, Rose, Russell, Sanford, Scott, William B. Shepard, Augustine H. Shepperd, Shields, Sill, Speight, Ambrose Spencer, Richard Spencer, Sprigg, Standefer, Sterigere, Henry R. Storrs, William L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, J. Thomson, Vance, Varnum, Verplanck, Vinton, Washington, Weeks, Whittlesey, C. P. White, Edward D. White, Williams, Wilson, Wingate, Young.—138.

NAYS.—Messrs. Alexander, Allen, Alston, Angel, Barnwell, Bell, James Blair, Bouldin, Cambreleng, Campbell, Chandler, Claiborne, Clay, Coleman, Conner, Daniel, Davenport, W. R. Davis, Desha, Draper, Foster, Gaither, Gordon, Hall, Harvey, Haynes, Hinds, Jarvis, Richard M. Johnson, Lamar, Leconte, Lewis, Loyall, Lumpkin, Lyon, Martin, Thomas Maxwell, McCoy, Nuckolls, Overton, Patton, Pettis, Polk, Potter, Roane, Wiley Thompson, Trezvant, Tucker, Wickliffe, Wilde, Yancey.—51.

So the bill was rejected.

#### BROWN SUGAR.

The House then resumed the consideration of the resolution submitted by Mr. HAYNES some days since, relative to brown sugar.

Mr. WHITE, of Louisiana, said, that, when this subject before came up in order, it was laid over for a specific object. I myself, said Mr. W., moved its postponement, as well from my own conviction of the propriety of the step, as at the instance and suggestion of some other gentlemen. The object alluded to was, to let in a report on the subject, which we were daily expecting to receive from the Treasury Department, in compliance with a call from this House. That report, sir, has since been sent

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Judge Peck.—Illinois and Michigan Canal.

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in, but, being of some volume, the public printer has not had time enough to lay it on our tables. This circumstance I regret as much as any one can; yet it does present the question, how far it be proper to proceed without it. Several gentlemen have mentioned the subject to me; and one among the number intimated that, if I did not move its further postponement, he would. As to myself, it does appear to me that it would not be over respectful to the gentleman who presides in the department, to take no heed of a document which we have caused him to prepare with no inconsiderable labor. Besides, I feel that I should be wanting in deference to the people where I live, if I neglected to use, and to imbue the House, as far as depends on me, with a knowledge of the facts which they have taken so much pains to embody. There is another consideration: we are bound by the rule we have adopted to attend in the Senate, during this week, on the debate of the impeachment we have preferred against Judge Peck. The hand on the dial plate indicates that but five minutes could now be allotted to the subject. For these reasons, sir, I move its further postponement until next Wednesday, in the hope that it may be then taken up, and prosecuted to a termination.

The motion prevailed.

The resolution heretofore submitted by Mr. DRAWTON, calling on the Secretary of War for certain information relative to officers of the army, furloughs, &c., was considered and agreed to.

The resolutions heretofore submitted by Mr. HONNERS, calling upon the Secretary of State for certain information, were taken up, considered, and modified to read as follows:

“Resolved, That the President of the United States be requested to inform this House what measures have been taken by the Executive in relation to the capture, on the 4th of July, 1829, of the ship *Galatea*, late of the port of New Bedford, by a Portuguese naval squadron then blockading the island of Terceira; and, also, in relation to the imprisonment and robbery of the crew of said ship; and to the capture of other American vessels under the same order of blockade.

“Resolved, That the President be requested to lay before this House any correspondence that may have been had touching this matter, within the knowledge or possession of the President, not incompatible with the public interest.”

After a few remarks from Mr. H. in explanation of the object of the resolutions, they were agreed to, as modified.

The resolution offered by Mr. POTTER a few days since, to amend the rule of the House which limits the discussion of resolutions to one hour, was next taken up.

Mr. POTTER was going on to state the reasons which induced him to offer the resolution, and explaining the bad effects of the present rule, when he was interrupted by the expiration of the hour—elucidating, as he said, the inexpediency of the rule, and exemplifying the great disadvantages under which members labored.

#### JUDGE PECK.

The House then again resolved itself into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the Senate, to attend the trial of Judge Peck before the high court of impeachment. Having returned, and reported progress,

The House adjourned to Monday.

MONDAY, JANUARY 31.

Mr. CROCKETT presented the petition of three Cherokee Indians, who are entitled to reserves of six hundred and forty acres of land each, and moved its reference to the Committee of Claims.

Mr. CLAY suggested that the proper reference would be to the Committee on the Public Lands.

Mr. CROCKETT maintained that the petition should go to the Committee of Claims. He explained the object of the memorialists. They had been dispossessed of their land by white men, and brought a suit for its recovery, but were too poor to employ counsel. They had thrown themselves on the State of Tennessee for the benefit of the pauper law, so as that counsel might be employed for them; but the benefit of that law was refused. He hoped the petition would go to the Committee of Claims.

Mr. WILLIAMS moved its reference to the Judiciary committee.

After some conversation between Messrs. CLAY, WILLIAMS, WHITTLESEY, and others, the petition was finally referred to the Committee of Claims.

Mr. MERCER, from the Committee on Internal Improvements, reported a bill to authorize a subscription to the stock of the Alexandria Canal Company; which was twice read; and the question being on its commitment,

Mr. POTTER moved to lay the bill on the table.

Mr. MERCER called for the reading of the report of the Committee on Internal Improvements, which reported the bill. The Clerk was about to read it; when

Mr. MERCER earnestly entreated the gentleman from North Carolina to withdraw his motion, and thus save the time of the House, and the money of the nation.

Mr. POTTER said, that, yielding to the advice of his friends around him, he would withdraw his motion to lay the bill on the table. When the bill granting a charter to the company was before the House, at the last session, it was generally understood that, if the company obtained the charter, they would not ask Congress for a subscription to their stock.

Mr. MERCER stated that the gentleman was under a misapprehension. The individuals who advocated the granting of a charter had no power to pledge the company that they would not ask Congress to subscribe to the stock of that company. He assured the gentleman that there was no pledge; and he felt convinced that, if the gentleman would read the report of the committee on the subject, and had no constitutional objections to the measure proposed, he would unite with the friends of the bill in procuring its passage.

The bill was then committed.

Mr. DODDRIDGE asked leave to submit a motion to print 6,000 copies of the reports of the majority and minority of the Committee on the Judiciary relative to repealing the twenty-fifth section of the judiciary act of 1789; but the House refused the leave.

#### JUDGE PECK.

The House then, on motion of Mr. SPEIGHT, resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair; and, on motion of Mr. HAYNES, proceeded to the Senate, to attend the further trial of Judge Peck before the high court of impeachment. Having returned, the chairman reported that the committee, in pursuance of the order of the House, had attended the trial of Judge Peck; and that the Senate had pronounced judgment in the case, and, by a vote of 22 to 21, had refused to sustain the impeachment preferred by the House; and that the court had adjourned *sine die*.

#### ILLINOIS AND MICHIGAN CANAL.

The House then proceeded to the consideration of the motion made on the 6th instant to reconsider the vote by which was rejected the bill to authorize a change in the disposal of the land granted for the construction of the Illinois and Michigan canal.

Mr. DUNCAN hoped the motion for reconsideration would prevail, and that the bill would be made the order of the day for some day certain; by which time he trusted that he should be able to satisfy gentlemen on a point

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which was objected to when the bill was last before the House; and he called for the reading of the report of the Committee on the Public Lands, which committee reported the bill. It was read by the Clerk.

Mr. VANCE said that, when the bill was taken up before, he was desirous of offering an amendment, with a view to meet the views of gentlemen. If no other member did, he should take occasion, if the House agreed to reconsider the bill, to submit an amendment, so as, if possible, to meet the views of gentlemen, and secure the passage of the bill in the best possible shape.

Mr. DUNCAN remarked that the gentleman who had made the motion to reconsider, had stated to the House, at the time of doing so, that he did it with the view to offer an amendment, proposing to appropriate money, in lieu of scrip, to aid the State of Illinois in the construction of the proposed canal. If gentlemen would prefer the appropriation of money, he had no objection; though, for his own part, he should be perfectly satisfied with scrip. Gentlemen were mistaken in the idea that the scrip would be sacrificed. Lands to the amount of \$360,000 had been sold in the State of Illinois the last year; it was proposed by the bill to apply but \$50,000 worth of scrip in a year; and it was evident that it would be equal to money in the hands of the State.

Mr. BELL said he had voted for the original bill, and stated the grounds upon which he did so. He should be opposed to an amendment like the one suggested, and could not vote for the reconsideration, though he had voted for the bill originally.

Mr. VANCE said that, for himself, he was willing to take the bill as it was; but it did not appear to be so framed as to satisfy gentlemen; and with a view to give more general satisfaction, the motion had been made to reconsider, so as to submit the amendment suggested.

Mr. IRVIN, of Ohio, with a view, as he said, to have done with the subject, for the present session, at least, moved to lay the motion for reconsideration on the table. The motion was negatived.

The question was then put upon the reconsideration of the vote by which the bill had been rejected, and was decided in the negative—yeas 32, nays 109.

#### JAMES MONROE.

The House then took up the bill for the relief of James Monroe—the question being on concurring with the Committee of the Whole in striking out the enacting clause of the bill.

Mr. MERCER rose, and said that, when the bill was under consideration in Committee of the Whole, he had suggested the propriety of retaining the enacting clause; and that, if it were not stricken out, he should move to strike out the whole of the bill after the enacting clause, and submit an amendment, referring the claim to the accounting officers of the treasury for a just and equitable settlement. The committee had, however, seen proper to strike out the enacting clause. He hoped the House would not agree with the committee in their amendment; in the event of which he should submit an amendment, [which he read.] Mr. M., in a speech of some length, then spoke in favor of the claim, and in explanation of his amendment.

Mr. CHILTON should be opposed to the amendment. He hoped, however, that the House would at once concur with the committee, and strike out the enacting clause of the bill. He called for the yeas and nays on the question, and they were ordered by the House.

Mr. CARSON spoke in favor of the claim, and against the amendment of the committee. A bill should pass in some shape, extending relief to Colonel Monroe.

Mr. PATTON gave his views on the subject; he was opposed to the amendment, yet thought that the sum proposed to be allowed by the bill was too large. The al-

lowance to Mr. Monroe for a house purchased by him in Paris, for instance, was an item to which he objected.

Mr. SUTHERLAND, in a very impressive speech, supported the claim, at considerable length. He alluded to the revolutionary services of Mr. Monroe, and his present unenviable situation.

Mr. HOWARD called for the reading of a memorial from his constituents, in support of the claim, as being couched in stronger language than he could use, and which he hoped would be read to the House instead of any remarks from him. The memorial was read.

Mr. McDUFFIE made a few very energetic remarks in favor of the claim, and its settlement by the accounting officers of the treasury. He alluded particularly to Mr. Hagner, as one of the best, most industrious, and faithful accounting officers of the Government, and said that, if the claim should be referred to him, ample justice would be done.

Mr. POLK opposed the claim.

Mr. BUCHANAN was in favor of the claim, as well as in favor of sending it to the accounting officers of the treasury for adjustment. He also eulogized Mr. Hagner as a faithful public officer, and hoped the claim might be settled as proposed.

Mr. ELLSWORTH said he did not rise to enter into the merits of this bill, his vote was recorded in the committee—a sense of duty only induced him to vote as he did. I shall not be sorry, said Mr. E., if gentlemen can find it to be their duty to vote otherwise. My object is to state the objections I have to the reference proposed by the honorable gentleman from Virginia, viz. that the adjustment of this account shall be referred to an accounting officer of the treasury, to act under the Secretary of War, subject to the supervision and final decision of the President. The manner of reference, and the principles of settlement, are incorrect. The whole is nothing less than passing a vote that the present Executive shall allow to one of his predecessors what, on vague principles of equity, if not of mere generosity, he pleases. I would as willingly give this power to the present Executive, as to any man; but I think we should give it to no man. He ought not to be called to this duty; he must feel his embarrassment in discharging it, and he cannot act as another man might. I would not object to a reference to an accounting officer; but then I want his responsibility. As is proposed, he is to act under another; and I assure the House, under this reference, he will not assume our responsibility, and do what, in committee, we have said ought not to be done, and especially as he acts under the Secretary of War, who is thus placed over an inferior officer, to direct his course. Nor can the Secretary feel any responsibility—the amendment is that the President is to decide; and I repeat that the whole is left to the generosity of the Executive. We lay down no definite rules—we designate no items—we fix no limits—and, for aught we can do, if this amendment prevails, claims to any amount may be allowed against us. Sir, it is our duty to pass judgment upon these claims. If they are legal, then we already have accounting officers to allow them; if they are not legal, but are to be allowed on principles of indefinite equity or generosity, it is our business to determine the amount, or reject them. With the fullest confidence in the Executive, that he would do what seemed to him right, I will not consent to impose upon him this unwelcome duty—he is in a most delicate situation, when called by Congress, and that, too, after our vote in committee, to adjust the accounts of President Monroe. It is nothing less than an appeal to his generosity—the persons under him will never, in such a case as this, undertake to discriminate between the items. They have no rule for it. As none of the items are a legal charge, they will at once refer the whole to the President, and he must take the responsibility of allowing

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them, or incurring the displeasure of the friends of the bill—a situation in which he ought not to be placed, for in it he cannot act as in the discharge of his appropriate duties.

Mr. EVERETT, of Massachusetts, was in favor of it. He made several remarks in support of the claim, and concluded, by making a very feeling appeal to the House in its support.

Mr. DWIGHT also spoke on the same side.

Mr. WILLIAMS again opposed the claim.

Mr. DAVIS, of Massachusetts, observed, he should have been content to pursue his usual course, by giving a silent vote, if he had not noticed, during this earnest and protracted debate, that many gentlemen seemed to entertain erroneous views of the nature and character of the demand made upon the Government. Although, said Mr. D., I was a member of the select committee to whom this matter was referred, both in the last and in the present Congress, I had resolved to leave the discussion to others; but after what has taken place to day, I feel called on by a sense of duty to place the claim in its true light before a vote is taken; for I am persuaded it has merits which have been overlooked in the heat of debate. I have, said he, looked over the voluminous documents which are intended to illustrate and support it, not at the present session, but during a former Congress—and although I may not in my recollection be exact in their details, yet my memory will not fail me in the material facts. I may claim, therefore, without subjecting myself to the imputation of vanity, to know something of the facts as they are set forth. Let us then see what they are. Mr. Monroe was appointed to a twofold mission: first to France, and then to England, by Mr. Jefferson, who, having an over solicitude to economize the public funds, informed him, when the appointment was made, that he must be content with one outfit instead of two, as had been usual under similar circumstances, both before and since. It was then believed, both by the President and the minister, that this arrangement would cover the expense; but the latter found on experiment that it was a great mistake, for he had been compelled to draw largely upon his private resources to maintain himself.

On his return, after much delay, the second outfit was allowed to him, and he received it, protesting that it fell far short of indemnifying him. This, said Mr. D., the substance of the story; and, in order to understand the grounds of appeal to this Government, it is necessary to advert to the state of public affairs at the time, and to notice some of the items of claim presented for our consideration. I shall not trouble the House, however, with that kind of examination which has been gone through by many gentlemen, for it is wholly unnecessary as I view this matter, for I do not consider Mr. Monroe as having established a strictly legal claim, and shall not, therefore, draw in question the reasoning which has been pressed upon us on this head, and which has occupied the time of the House for several days.

What, then, said Mr. D., was the state of public affairs? It was a momentous crisis—a crisis big with the fate of Europe. It was the period of the French revolution, when the mind of that nation was on fire, threatening to consume itself, and whatever approached it. It was a time of great embarrassment, which called for great skill, for uncommon prudence, and the most patient forbearance; which demanded a spirit of unexampled temperance and conciliation to maintain and secure the interests of the country. In these extraordinary circumstances, the minister declares he felt himself bound, by his regard for the peace and prosperity of this nation, to adopt measures attended with unusual expense. His protection was sought by a large number of his countrymen against the imminent dangers and misrule of the times. It was not sought in vain. He threw open the doors of his hospitable

mansion to all who sought a place of refuge, and limited his family only by the number of his countrymen.

To give the French nation an assurance which its watchful jealousy seemed to demand, that we were desirous of a lasting peace and friendship with them, he bought a house in Paris, for which he paid a large sum of money. He declares most solemnly that his sole object was to give the French unequivocal proof of our sincere desire for perpetual amity, and that he should not have made the purchase upon any other consideration, or for any other purpose. The title to this estate has failed, and he has lost the whole amount of the purchase money. He admits that he had no instructions to purchase it for this Government, but took it at his own risk, believing himself called upon so to do for the good of the country. It is said this furnished no ground of legal claim upon the treasury—agreed—but I appeal to gentlemen on this floor as individuals, as men bearing the relations of honorable, high-minded citizens in the community; as men having just conceptions of the moral obligations which exist between principal and agent, between master and servant; and ask each, if he had employed an agent in his service, who, in a difficult and embarrassing crisis of his affairs, had advanced his private funds without instructions, but solely for the benefit of his principal, and with the hope of rescuing him from imminent peril, and should thereby ruin himself while he protected the interests of his employer, whether, to such an agent, he could turn a deaf ear if he should appeal to his sense of justice and equity for relief in his distress? Whether he could spurn him away, and leave him to perish with hunger and nakedness? And, if he could, whether the world would not condemn such an individual as cold, selfish, heartless? as destitute of the sympathies of our nature, and an idolater of money? Sir, there would be but one opinion in such a case—the servant sinks his private means in his most sincere endeavors to promote the interests of his master, and without a thought of benefiting himself; that master can never live honored and respected in the enjoyment of wealth among his fellow-citizens, while that servant is perishing with poverty. Now, sir, what is the difference between this and the case before us? We are not, as some gentlemen seem to suppose, a judicial tribunal to decide between parties, but we are the master settling with the servant; and shall it be said that we cannot, or that we will not, deal justly? Mr. Monroe sunk a large portion of his private property in this house—it is gone, and we are assured the act was done with the best intentions, and solely for our good—and I appeal to gentlemen to decide in this case as they would in a private transaction. I ask them whether they are prepared to say there is no equity in this demand; whether they are willing to push it from them by striking out the enacting clause of the bill, and obtain for their country a reputation which, as individuals, they would be unwilling to own.

I see, said Mr. D., another item to, which I will also ask the attention of the House for a moment. It is money advanced to relieve the necessities of Thomas Paine. The sum is not large, but too large for a poor man to lose. At the period of indiscriminate slaughter, during the French revolution, Paine was seized and incarcerated, but through accident his life was spared, though he was kept immured in a loathsome cell until he almost perished from suffering. In this situation he made an appeal to the minister for protection as a foreigner, and through his interposition was liberated; but he was worn down with disease, penury, and want. He had no one to appeal to but the minister of his adopted country. This appeal was made, and for the honor of my country I feel sincerely thankful it was not made in vain.

I am aware, sir, that this individual has justly forfeited much of his character, and that in aftertimes his memory

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*Amendment of the Rules.—Distribution of the Surplus Revenue.*

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has been held in low estimation by a large portion of the people of this country; but sir, if we go back to the revolution, and read the effusions of his pen at that period, the patriotic feeling kindled by them will teach us that the author of the Crisis will not be forgotten while we are a free people. What, sir, would have been said of the American minister if he had repulsed the appeal, and left the man to perish? His conduct would have been reprobated as disgraceful to himself and dishonorable to the nation. It would have fixed on him a stain which neither time nor circumstance could efface. He knew too well his obligation as a minister, and a citizen, to pursue such a blind, selfish course. He took him under his protection, and provided for his wants; and it is said this lays no foundation for a legal claim. Agreed; but will gentlemen say there is no equity in it? Will they plead the statute of limitations? Will they lay hold of an expression of Mr. Monroe, where he says he asks no pay for it? This will do, sir, for clerks of yonder department, who have no power to act otherwise, but it cannot become a magnanimous and generous people, in settling the accounts of one of their most distinguished servants. The money was paid—it came out of private funds—it was advanced by the individual for the honor of the country—it has never been refunded—I repeat, are gentlemen prepared to say there is no equity in this?

I see among the enumerated items certain claims for interest, because the principal was withheld. Now it may be said that the matter should have been settled earlier. This may be so, but still there are reasons for the delay, which ought to be respected. The individual says his relations to this Government were such, that he felt unwilling to bring forward his demands, lest he should be thought to use the powers and influence of office to aid selfish purposes. Sir, this is a feeling honorable to him who entertained it, and worthy of all imitation—he was willing to come to the level of a private citizen before he asked you to settle a disputed claim. Sir, I will not say interest is due, but I would have the matter looked into by the accounting officers; and I should not stand upon nice technical rules, but do that which in itself is right and honorable; and I hope the claimant expects no more.

I could go more at large into this account, and speak of the arduous services of this individual while he did the duties of two departments, and put forth the utmost of his exertions to replenish the empty treasury, by pledging his honor and property, but these observations illustrate my views. The claimant has not a strictly legal demand, but he appeals to our justice—he calls on us to deal by him as one honest man deals by another; and for one, sir, I will not disobey the call. I will not stand on the ground of special pleaders, but will look into the whole matter; and if it be right to grant a sum of money, I will vote for it, under a full belief that I ought so to do, and that it will be the most acceptable service I can perform to my constituents, for they are too liberal and too enlightened to desire to enrich the public by wronging an individual.

I could say something of the public services of Mr. Monroe, and of the humiliating spectacle of a fellow-citizen who has held the highest places of honor and trust in this great republic, struggling with abject poverty, but I forbear, as this topic has been pressed with great eloquence on the one hand, and repelled with equal ability on the other. Perhaps it ought to have little influence in deciding this question. One thing, however, is certain; this man has not grown rich at the public expense, and this is a strong proof of honesty.

Sir, I rose to make these explanations, merely that the House might not vote under false impressions; and I will resume my seat, by expressing a hope that the enacting clause will not be struck out, but the bill will be so amended as to give the claimant some suitable compensation for his public services and sacrifices.

After a few remarks from Mr. MERCER, and a reply by Mr. POLK to Mr. M. and Mr. DAVIS, of Massachusetts,

The question was taken on agreeing with the Committee of the Whole in striking out the enacting clause of the bill, and decided in the negative—yeas 80, nays 109. Mr. MERCER then moved to strike out all after the enacting clause of the bill, and insert the amendment which he had before read. Pending which motion,

Mr. WILLIAMS moved an adjournment.

Mr. DAVIS, of Massachusetts, hoped the gentleman would withdraw the motion for one minute, to enable him to ask leave of absence for his colleague [Mr. GORHAM] for ten days.

Mr. WILLIAMS consenting, leave was granted, as requested.

And then the House adjourned.

TUESDAY, FEBRUARY 1.

#### AMENDMENT OF THE RULES.

The resolution of Mr. POTTER, to amend the rule which limits debate on resolutions and the presentation of reports to one hour in each day, was again taken up.

[When this resolution was under consideration a few days ago, Mr. POTTER made a few observations in regard to it, one of which produced a general smile in the House. Adverting to the operation of the rule which limits the consideration of resolutions to a single hour on each day, frequently cutting off a speech which might have been near its conclusion but for the intervention of the rule, he said that the effect of it was to give time to the orator to recuperate, and resume his speech the next day with fresh materials and fresh vigor. Mr. P. had scarcely pronounced these words, when the Speaker apprised the gentleman that the hour had expired, and he must suspend his further observations for this day. Whereupon, Mr. P. observed that there could not have been a better illustration of the remark which he had just made, than that which the present case furnished, if he should feel disposed to avail himself of the interval of a day to prepare a set speech.]

Mr. POTTER added a few words on the subject. He spoke of the numerous and complicated rules of the House, and of the many instances in which gentlemen were declared to be out of order, from the want of a proper knowledge of them. He concluded by moving to refer the resolution to a select committee, with instructions to amend the rules generally.

Mr. MERCER had one suggestion to make before the resolution was agreed to. By the present rule of the House, should the previous question be demanded, and sustained, it shut out all amendments which had been previously made to a bill, and the question recurred on the original bill itself. He hoped that rule would undergo an amendment, so as to avoid this singular operation.

The resolution was then agreed to.

#### DISTRIBUTION OF THE SURPLUS REVENUE.

The resolution submitted some days since, to authorize the printing of 6,000 copies of the report of the committee to which was referred so much of the message of the President of the United States as relates to a distribution of the surplus revenue, was next taken up.

Mr. EVANS, of Maine, said, he would ask the indulgence of the House but for a very few moments, while he stated his objections to the motion under consideration. Having had the honor to be upon the committee by which the report was presented, and dissenting as he did to most of the doctrines contained in it, he availed himself of that mode and opportunity to explain the extent of his dissent, and very briefly to give his views of the subject referred to the committee, in preference to the more common one of submitting them in the form of a counter report. This



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being the chief object for which he had risen, said Mr. E., I trust it will not be imputed to me, that I have any desire to suppress this report, or to withhold it in the smallest degree from the public eye, or to restrain it from the most extensive circulation which its friends can wish. All such motives I utterly disclaim. Indeed, if I could be governed by such considerations, and were really anxious to restrict its circulation, I am fully sensible how utterly unattainable that object is. The questions discussed in the report have for a long period agitated the public mind; and all that argument, and learning, and eloquence could bring to aid the decision of them, has long since been exhausted. The controversy is, however, still carried on in the public journals, and political parties have taken different sides, and are endeavoring to sustain themselves in their views upon these topics. Now, is it for a moment to be supposed that the report in question will not be extensively circulated and spread before the people, even if the present motion should fail? If it be an able and convincing argument, will not the presses, and the party who concur in it, spread it as on the wings of the wind? Will it not be published and republished, applauded, scrutinized, canvassed; nay, forced upon public attention? Such surely is the fate of all public documents of this description. If, however, I regarded it as of an opposite character; if in my judgment it is feeble and unfounded, then surely I can have no other motive than to give it the most extensive circulation possible: for in proportion as it fails to establish the truth of the propositions which it maintains, it adds strength and support to the opposite principles. When, too, it is considered how very small the number proposed to be printed is, compared with the number of people to be supplied, can it be supposed that a refusal to adopt the motion will, in any sensible degree, restrain it from the public attention? What is six thousand distributed among the two millions or more of qualified voters in the United States? If this number be ordered, the share of each member is about twenty-five; and what is twenty-five to be distributed among more than ten thousand? Sir, I make these suggestions only to show that I cannot be influenced by any wish to withhold the report of the committee from the public examination; and I hope, after this avowal, I shall not have occasion again to repeat it.

My objection, Mr. Speaker, to the motion before you, is of another character. It is this—that, by ordering this extraordinary number printed for the avowed purpose of distribution among the people, the House will give its sanction to the doctrines contained in the report—doctrines which I am sure a majority of this House does not entertain. Sir, this case stands upon different grounds from those usually presented, where a large number of documents have been ordered to be printed. I am aware that we have in many instances caused as numerous an edition of public papers to be issued as is now requested. In relation to Executive reports, communicated to Congress at each session by the heads of departments, there is manifest propriety in the practice which has obtained; for these contain the history of the operations of the Government in its different branches, of which every citizen ought to be truly informed. These are collections of facts and useful knowledge never before published, and not arguments upon disputed points of constitutional power, of which there is already an abundant supply in print. The motion, I think, can derive no aid from this precedent. The House have, it is true, caused reports of its committees to be published in the manner now requested, on various other occasions; and I presume these will be relied upon as precedents for the present motion. But I apprehend they will also fail to sustain it. How stands this case, compared with those? The reports of committees are generally in accordance with the known sentiments of a majority of the House. The House does not,

therefore, by printing an extraordinary number, give its sanction to doctrines which it does not profess, and which, by its action upon subjects before it, it expressly negatives. Again, reports are usually accompanied by bills, or resolutions, which are presented to the House for its adoption or refusal; and, by its proceedings upon these, it has an opportunity of expressing its assent or dissent to the reasonings of the report. But, in the present instance, no such opportunity exists. The report is accompanied by no bill or resolution; it recommends nothing to the adoption of the House; it invites no legislative action, and has been laid upon the table at the motion of the chairman, never again to be disturbed. Sir, if the report had been accompanied by a series of resolutions expressive of the sense of the House, in accordance with the sentiments of the report, and upon which the House could be called to pronounce its judgment, the objection which I have urged would have less force. But, in the absence of this, the House has no possible mode of avoiding the conclusion which to me seems inevitable, that the printing of the report for general distribution is a sanction and adoption of the principles which it maintains. I am not forgetful, sir, that a practice has obtained latterly, of printing the same number of the report of a minority of a committee, as of the majority, in those cases where opposite reports have been made. This is a practice of modern origin, and is not liable to the objections existing against the present motion. It stands upon a different ground, and is allowed merely from a feeling of courtesy and respect to the members who differ from a majority of the committee, and a majority of the House, upon a subject which that majority deem it suitable and proper to discuss, and to spread the results of that discussion before the people. Nothing more could be drawn from that precedent than this—when the majority of the House have ordered a large number of reports containing their opinions and doctrines, and the arguments in support of them, to be published, a proper sense of courtesy will induce them also to publish the sentiments, upon the same topics, of the minority. In such a case, the whole proceeding shows that the House does not intend to give its sanction to the views of the minority. It could never be understood in that sense. But, in the present case, the majority of the House have no report expressive of their opinions upon the great subjects under discussion, which they propose to publish: they do not attempt to send a labored argument to the people, to sustain the principles by which they are governed in their legislative action. It is not a case, therefore, where the minority of a committee, or of the House, ask of the courtesy of the majority that their sentiments may be heard in the same manner, and to the same extent, as the majority deem suitable to adopt in relation to their own opinions. But the case is this—the minority of the House, speaking through a majority of the committee, ask that their opinions and arguments may be published and distributed at the expense of the Government, upon a subject which the majority have not discussed, and where they do not propose to embody their opinions in the form of a report, for distribution among the people. For a case of this description, sir, I know of no precedent. For myself, I will never refuse to allow the minority to appeal to the public in this mode, when the majority assume it for themselves; but in no other case will I give my sanction in this form to a report of a committee in which I do not concur; more especially when the subject of that report is not presented to the cognizance of the House, and no mode is left by which it can express its judgment upon it.

Having thus, said Mr. E., explained the ground of my objection to the motion before you, I will now proceed very briefly to state what the report is, and the extent of my dissent from the doctrines which it advocates. And, in the first place, I had the misfortune to differ from my

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colleagues on the committee as to the precise subject which was referred to it. In my judgment, the only subject which they were directed to consider, was that part of the message relative to the distribution of the surplus funds among the several States, in proportion to their representation in Congress. This was the simple inquiry; and there is surely enough in it to engage the calm and deliberate attention of Congress. It involved an examination of the constitutionality of the proposed measure, into its expediency, into the proposed rule of distribution, and the extent to which Congress ought to retain control over the disbursements, should the proposed plan be adopted. In a proper consideration of these and other topics necessarily connected with the subject, I did not suppose that the subject of internal improvement, generally, was involved, and much less that an inquiry into the constitutional power of the General Government to prosecute works of this description was submitted to the committee. It seems to me that the House, having appointed a select committee upon internal improvements, and having referred to it expressly so much of the message as relates to the mode of prosecuting them by subscriptions to stock in incorporated companies, have very clearly marked the line of separation between these topics, which, in some degree approached each other, and have designated the appropriate duties of each of these committees. The majority have thought otherwise, and have discussed at considerable length the long-debated question of the constitutional power of Congress to make appropriations for works of internal improvement, and have arrived at the conclusion that the exercise of this power, in any of the modes in which it has been practised, is an infringement upon the constitution. I also differ with the majority in this conclusion, believing with the President, whose opinions the committee have not failed copiously to bring to their aid on other particulars, "that the right to make appropriations for such [works] as are of a national character had been so generally acted upon, and so long acquiesced in by the Federal and State Governments, and the constituents of each, as to justify its exercise on the ground of continued and uninterrupted usage." I am aware, sir, that the sentiments of the President, conveyed in his message at the last session, returning the bill for the Maysville turnpike, have been differently understood in different places, and by different parties, and are, perhaps, not readily to be discovered. Yet, I believe, in that document, as well as in the message at the commencement of the present session, the President means to assert the constitutional power of the General Government over works of this description, and places his objection only upon the local and limited character of the particular works in the bills before him. If the subject were now presented for the first time, I should be disposed to give to it the most full and deliberate consideration, and perhaps to obtain from the people, by spreading our sentiments before them for their examination, an expression of their opinion; but it is now quite too late in the day to discuss a question upon which argument has been exhausted, and a decision long since made, and sustained, as the President asserts, "by the Federal and State Governments, and the constituents of each." Sir, this House has sustained that decision in repeated instances, and has passed acts appropriating money to works of internal improvement, founded clearly upon its constitutional power so to do. Now, sir, what are we asked to do? Why, to give our sanction to a report expressly denying this power—to accuse ourselves of gross inconsistency, and a violation of the constitution, in numberless instances. I think, sir, the time has gone by, when a discussion of this question can be useful. At the last session, a distinguished gentleman from Virginia, no longer a member, [Mr. P. P. BARBOUR,] who has been among the ablest and most constant and persevering

opposers of the doctrine, expressly waived the discussion: he said it had been practically settled—that argument had been exhausted upon it—and nothing now remained to be said. Every thing which ingenuity, and talent, and learning, and eloquence, could contribute, had been lavished in its discussion; and I then thought, and still think, that no new light can be thrown upon the subject, by further discussions. Is it right or useful further to agitate the public mind—to open a question which the people have already settled—to renew arguments which they have overruled, and more especially to accuse ourselves before them of a direct violation of the constitution? In my judgment, it is not. Having disposed of the question of the constitutional power of Congress over the works in question, the committee proceeded to a consideration of their constitutional power to make the proposed distribution among the several States; and I do not know, sir, that I dissent from the opinions of the majority on this part of the subject. I am rather disposed to concur with them in believing that Congress does not possess the power, or rather that it is of a character too questionable to admit of its being exercised. It stands, in my opinion, upon a totally different principle from that upon which internal improvements have been made. The funds of the country belong to the whole people, as one people, and one country, and are to be disbursed for the benefit of the whole people. The proposition is, to distribute them among the States, in the language of the message, "for domestic use."

Now, sir, while I can readily believe in the power of the Government to disburse its funds for the general welfare and defence, and to make improvements of a national character, I cannot so easily find the authority to dispense it for the domestic uses of the States. Having come to this conclusion, as the committee did, unanimously, I believe, it seemed to me that nothing more was required of them than to report their opinion to the House, and to leave the subject to their pleasure. As to the expediency of making the proposed distribution, provided the constitution had authorized it, I have not felt it necessary yet to form an opinion. That it has recommendations worthy of consideration, probably will be denied by no one; and that it is not "free from objections," and is "attended with difficulty," the President himself asserts in his message. What, sir, would be thought of the idea of distributing the money expended in fortifications, among the States according to the rule proposed, to be appropriated by them for those objects? What would be said of a proposition to make this equal and exact appropriation, in time of war, to the States for their defence and security? Would these be listened to for a moment? Certainly not. All public expenditures must be made according to the particular exigency of the case, and in a manner best to promote the public safety and welfare. And yet, sir, why is it not as just and proper that these and all other public disbursements shall be expended equally in the several States according to their representation, in order that each may share in the favors of the General Government, as that this particular disbursement should be so distributed? Works of internal improvement are designed and prosecuted with a view to the defence and security of the country, and to augment its strength and power, as well as fleets and fortifications; and ought there to be any other rule in the construction of them, than to regard their importance to the general welfare? The President suggests in his message that it may be proper for Congress to reserve the power in certain cases over the disbursement of the funds by the States. Now, sir, it appears to me that the cases of this description are the only cases, where the public funds ought to be expended at all; and, therefore, that Congress ought to retain the power in all cases. But, sir, it is not my purpose to go into a full discussion of these subjects at this time; and I have allud-

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ed only to some of the difficulties suggested by the Executive, which seem to me to have much weight. To obviate these, and to render the scheme successful in its operation, he regards it only necessary to appeal to the patriotism of the people—to the example of the framers of the constitution, and to a spirit of “mutual concession and reciprocal forbearance,” which he trusts will never be invoked in vain. Sir, these are powerful considerations, and such as will never be disregarded by the friends of our country and its institutions. But I am at a loss to know why they are not as effective to overcome the evils supposed to exist in the mode at present pursued; why they may not be wished with equal success now, as to obviate the difficulties of the proposed substitute.

If, at every obstacle, real or imaginary, which may spring up in the progress of our Government, experiments are to be tried, new paths explored, new provisions incorporated into the constitution, what shall we exhibit but the perpetual fluctuations and instability which have been characteristic of popular Governments in all ages? And is this a spectacle we are solicitous to hold up to the view of the world?

There is another topic introduced into the report of the committee, which I did not regard as submitted to their consideration; and that is, the expediency of so modifying the tariff as to diminish, if not wholly prevent, the accumulation of funds more than are required for the ordinary expenses of the Government. The message assumes that a surplus will remain in the treasury after the public debt shall have been paid, and, in the happening of that contingency, proposes the inquiry as to the mode of its distribution. Now, sir, whether or not such a surplus will remain, is not a matter for the consideration of this committee, or this Congress. If, when the anticipated period arrives, I shall be honored with the confidence of my constituents, and retain a seat in the councils of the nation, I shall not fail to co-operate in affording relief from any duties or taxes which can be granted, consistent with that protection to American industry and enterprise, which is required by a proper regard to the happiness, prosperity, and independence of the country. I shall not aid in raising a revenue by any species of taxation upon the people, for the purpose of prosecuting works of internal improvement, or for distribution among the States for their “domestic use;” but, on the other hand, I shall not acquiesce in withdrawing the plighted protection of the Government from these branches of manufactures, which are regarded as “objects of national importance,” “essential to national defence,” or which, after temporary protection, may fairly be expected to become sources of national wealth, and to compete successfully with the productions of foreign labor.

Mr. JARVIS, of Maine, said, when I made the motion for printing an extra number of copies of the report of the Committee on the Surplus Revenue, I certainly did not expect to encounter any opposition; still less, sir, did I expect that the opposition would come from my colleague, who is a member of that committee. Had he favored us with his presence when the question was considered by the committee, I cannot but believe that he would have acquiesced in the propriety of having the subject submitted to our constituents. Sir, I will not be seduced into following my colleague through the mazes of his arguments. If, upon the bare question of printing, the custom should prevail of taking so wide a range, and of entering into constitutional discussions, the House of Representatives would cease to be a hall of legislation, and would degenerate into a debating club.

The question of the disposal of the surplus revenue was first offered to the consideration of Congress by the patriarch of the republican party; it has been twice, ay, thrice, urged upon our attention by the present Chief Magistrate. It is a subject which involves the yearly dispo-

sal of millions of treasure; it is a subject which involves constitutional considerations of the greatest importance. My colleague objects to the printing of the report in which these matters of high moment are considered, because it contains no facts. How long, sir, have we adopted this criterion?

The Committee on the Post Office and Post Roads made at the last session an able report on the subject of the Sunday mails. It contained no facts; it was merely an argument; and yet no opposition was made to the printing. At this session, the Committee on Manufactures made a report, which was ordered to be printed; notwithstanding the committee had told us on the very threshold of their report, that we were to expect neither facts nor arguments from them; their report was one of opinions!

Another objection is, that, by printing the report, the House gives its sanction to the opinions it contains. If so, sir, this House may be, and often is, placed in an awkward predicament; for an illustration of which, I will again refer to the Committee on Manufactures. That committee, as we have lately been informed by a member of it on the floor of this House, is split into three parts. One part looks upon the tariff of 1828, that child of many fathers, as a model of beauty and perfection; another part considers it a rickety, deformed urchin, which, however, has some stamina, and, by dint of great care and good nursing, may be reduced into some shape and comeliness; a third part regards it as a monstrous abortion, which ought to have been strangled at its birth. The report, and a counter report from different parts of this committee, have already been printed, and the opinion of the third part would also have been printed by the House, if its views had been submitted to us. Then, according to the doctrine of my colleague, the House would have exhibited the singular anomaly of entertaining three different opinions upon one and the same subject. It would have regarded the tariff as perfect, indifferent, and execrable! Sir, my colleague would transform us into a moral monster, surpassing the fabled monsters of antiquity. In the legends of former days, we read of monsters having three heads; but we, sir, should be a monster having three minds. A flight of the the imagination beyond the wildest fictions of poetry.

Sir, the subject of the surplus revenue has been carefully, diligently, and scrupulously examined and scanned by the committee to whom it was referred. The result of their investigation is contained in the report of which I have moved to have an extra number of copies printed. The report has been drawn up with great care, and not without labor; and I trust that the House will extend to it the same indulgence which it has extended to other reports not surpassing it in interest or importance.

Mr. CRAIG, of Virginia, said he was in favor of the proposition to print six thousand copies of the report in question. The time was now distinctly in view, at which, in all human probability, it would be necessary to provide for the disposition of a large annual surplus of revenue. There was, it seemed to him, great propriety, at this time, in drawing to it the public attention. This report, by being circulated among the people, will have that effect. The public mind being drawn to the subject thus early, will probably have digested some mode of disposing of this surplus, before the occasion for immediate action arrives, and all the difficulties usually attendant upon a matter of so much magnitude on its first appearance, be avoided.

He would now attend to some of the objections which had been advanced by the gentleman from Maine, [Mr. EVANS,] against the motion to print an extra number of this report. And first, if he [Mr. C.] rightfully understood that gentleman, he objected to the printing of the proposed number of the document, because that number was too insignificant to answer any good end; the share

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of each member would not amount to more than (about) twenty-five copies, and this number, distributed in each member's district, could produce no sensible effect. [Here the gentleman from Maine rose, and, the floor being yielded to him, stated that the gentleman from Virginia had misconceived him. He did not intend the remark which had been quoted as an argument, but merely as a remark to show that he had no fears that, by printing this small number of the document, impressions would be made upon the public mind, unfavorable to his views of the subject which it professes to treat.] Mr. C. said he was glad to be corrected. He had no wish to misinterpret the arguments or remarks of gentlemen.

Mr. C. said he had understood the gentleman to say, that to print this document would be, in effect, to give the sanction of this House to the principles which it contains. This is an assertion, not of intuitive truth, and requires proof. The proof had not been furnished, and, therefore, he might be excused for disputing its correctness. He contended that the order to print would not usher the document forth to the world under its implied sanction of the principles which it contains. The order to print would only sanction the propriety of submitting the subject to the public, for examination—to be approved if deemed to be correct—to be rejected if deemed erroneous.

The object of the motion he [Mr. C.] understood to be, not to forestall or act upon public opinion, but, as he had already stated, to arouse the attention of the whole people to a subject of great interest—to the subject of a distribution or other disposition of the annual surplus revenue, after the extinguishment of the national debt; an event which would, with a moral certainty, take place in three or four years.

Can it be believed that the early agitation of principles among the people is calculated to expose them to the influence of error? Sir, said Mr. C., I apprehend this is the very mode of avoiding error. Truth is great, and gains strength by exposure. The more it is agitated in the public mind, the surer is its final triumph over its natural adversary—error. I cannot then think that any bad consequence can possibly result from the printing of this document. But, on the contrary, it may produce good effects, by offering inducements to the people at large to take, thus early, into their consideration the great subject of the surplus revenue, and to prepare their opinions for the emergency when it shall arrive.

The gentleman from Maine, said Mr. C., asks with considerable emphasis, will the House permit the printing of a document which contains principles in opposition to the sentiments of a majority of the House? Has the gentleman considered the extent of the principle indicated by this question? Does he intend to deny to the minority all rights and privileges? Shall the majority be allowed to avail themselves of all the means afforded, by a command over the treasury, to propagate their dogmas, to the exclusion of the minority? Or does the gentleman mean to assume that the majority is infallible? This question savors strongly of Popish intolerance—we are right, you are wrong. In mercy to your dangerous condition, we will force you to the standard of our faith. We will, at least, prevent you from giving currency to your heresies. [Mr. C. was proceeding, when the Chair announced the expiration of the hour allotted to the discussion.]

[The following are the resolutions submitted by Mr. MARTIN, to the report of the Committee on the Distribution of the Surplus Revenue:

“Resolved, That the power of taking money from the people, by laying and collecting duties, imposts, and excises, is one of the most sacred of the trusts vested in Governments; that it is conferred solely to enable them to command the necessary means to execute the objects for which they were instituted; and that to exact money

from the people when not necessary for those objects, or more than may be necessary, would be, on the part of the Government, a manifest breach of trust, and to the people unjust and oppressive.

“Resolved, That the General Government was created by the people of the States for certain general objects, to execute which, particular and specific powers, enumerated in the constitution, were conferred on it, and, among others, the power of laying and collecting taxes, duties, imposts, and excises, which, like the other powers, was conferred solely as means for effecting the common objects entrusted to the Union; and that, for the General Government to collect taxes, to distribute the proceeds among the several States, would be in fact to acknowledge that the money is not necessary for those common objects, and would, therefore, be not only unjust and oppressive, but a direct and palpable violation of the constitution itself.

“Resolved, That to collect money to be distributed among the States, must, in its consequences, put to hazard all the objects for which the General Government was formed, as it would necessarily create in all the States powerful factions, whose object would be to obtain a control over the sums distributed, and whose influence would be directed to increase the surplus to be distributed, by arresting or demolishing the appropriations of the General Government, however constitutional or proper they might be, while they would be under the most direct and powerful influence to sustain the General Government as a mere engine for the unconstitutional, unjust, and oppressive purposes of collecting money from the people for an object never contemplated by the framers of the constitution, and wholly inconsistent with the purposes for which it was created.

“Resolved, therefore, That to distribute the surplus revenue among the States, would be unjust, unconstitutional, and oppressive, and dangerous to the General Government; and that the only plan that can be devised, that will be at once economical, just, constitutional, and safe, is, by a reduction of taxes, to leave the money, not necessary for the purposes of the Government, in the pockets of those who make it.”]

#### WOOD FOR THE POOR OF GEORGETOWN.

The SPEAKER laid before the House a letter from the Mayor of Georgetown, relative to the distressed situation of the poor of that city, and soliciting the House to grant a donation of some of the wood in the vaults of the capitol for their present use.

Mr. WASHINGTON said he would not take up the time of the House in explaining the necessity for acting immediately on the application just made. The letter sufficiently explained itself, and he should content himself with simply submitting the following resolution:

Resolved, That the Clerk of the House is hereby authorized and directed to cause thirty cords of wood to be delivered to the order of the Mayor of Georgetown, for the use of the suffering poor of that town.

Mr. POLK said he knew it was an ungracious task to oppose a resolution in behalf of the suffering poor of this District, or any other country. He must be permitted to remark, however, that the precedent of appropriating the public funds for such purposes was a bad one. The resolution now before the House had come upon it suddenly, and it was not of sufficient consequence to move its postponement. He recollected that, some years ago, there was a fire in the District, to be seen from the windows of the capitol, and an application was immediately made for extending relief to the sufferers. While he was disposed to do full justice to the motives which prompted members, on that occasion, to draw money from the treasury for the relief of the sufferers, he would ask, was the course adopted a proper one? Was the obligation to contribute to the relief of sufferers within the ten miles square

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greater than to those of other parts of the Union? The very same day that the fire occurred in Alexandria, property, to a far greater extent, was destroyed by the same element in Cincinnati, Ohio; but he had never heard that those sufferers applied to Congress for relief. There were many sufferers in the United States—many objects of charity—but they did not call upon Congress to help them. Continue to pass resolutions of the character of that now before the House, and what would be the consequence? Why, every winter, when the snow fell, or the Potomac was frozen over, applications would be made to Congress, and members would be engaged in the dignified object of buying and stowing wood, to give to the poor of the District of Columbia. Mr. P. remarked that, in opposing the resolution now under consideration, he did it on principle: the House had not the power to make the donation requested. He might be told that Congress was the exclusive Legislature for the District. Be it so. But was that any good reason that they should give away all the revenue of the nation to the people of the District of Columbia? If so, the poor of the other sections of the country had nothing to do but to come and sit down here, in this District, and apply to Congress for relief. It was not to the amount proposed to be given that he objected—no, not the paltry cost of thirty cords of wood; but he would state that gentlemen came here to legislate on the great concerns of the Union, and not to give away the public property. It was not money from the treasury, but the expense was to be defrayed by the contingent fund of this House. That fund was voted for the use of the House; there should be some discretion in its application; and if we may give away a part of it, for purposes other than for what it was intended, we may give away the whole. He might well address himself, on this occasion, to those who, by the operation of the previous question, had cut off all opportunity of remark on a former similar subject. Their motives were kind, no doubt, and he gave them credit for them; a severe storm was raging, and they yielded to their feelings as men. No such reason could be urged now, however; for the present was one of the most pleasant days they had enjoyed for some time. But it was said the poor of Georgetown were suffering—so may be the poor of New York, and other sections of the Union. In conclusion, he trusted that the House would, by its vote today, put a check to legislation on matters of this sort.

Mr. BLAIR, of South Carolina contended, that it was not competent for the House to vote donations of fuel for the people of the District. If so, it would have power also to vote millions of the public money to feed and clothe the suffering poor of the District. The House had no right to give away the public money for any such purpose; and if gentlemen were disposed to be liberal, let them be liberal out of their own money. He, therefore, moved the following substitute, by way of amendment, viz.

“That the Sergeant-at-arms be required to deduct from the compensation of the members of this House one day's pay, and deliver said sum to the Mayor of Georgetown, to be applied to purchase fuel for the paupers of that town: Provided, nevertheless, that such deduction shall be made from the compensation of such members only as vote in favor of this resolution.”

Mr. POLK asked for the yeas and nays on the amendment, observing that he would vote for it with the greatest pleasure.

Mr. STORRS, of New York, asked, what was the Legislature of the District of Columbia? As the answer to that question would imply the power of the House to grant the proposed relief, yet not to grant a similar relief to the people of Ohio, or any other State having its own legislature, Congress stood in the same relation to this territory as the Legislature of New York did to hers. He concluded a few remarks, by demanding the previous question.

The call was seconded, 90 to 86; and the main question was ordered.

The effect of this decision being to set aside the amendment of Mr. BLAIR, the question was put on agreeing to the resolution, and decided, by yeas and nays, in the affirmative—yeas 108, nays 79.

#### REVOLUTIONARY TRANSACTIONS.

The SPEAKER laid before the House the memorial of the heirs and representatives of the house of Basmarien and Raimbeaux, merchants, of Bordeaux, in France, in the period of the revolutionary war, upon the subject of the claims of said house against the United States, arising out of transactions during the said war; which was read, referred to the Committee on Foreign Affairs, and ordered to be printed.

#### JUDICIAL CONTEMPTS.

Mr. DRAPER, of Virginia, by leave of the House, submitted for consideration the following resolution:

*Resolved*, That the Committee on the Judiciary be directed to inquire into the expediency of defining by statute all offences which may be punished as contempts of the courts of the United States.

The resolution having been read,

Mr. DRAPER said that he had offered this resolution under the deepest sense of duty. It was not his intention, he said, on this occasion, to agitate a question which had been recently much agitated elsewhere. But, said he, I do wish to know upon what tenure the people of this country hold their liberties. I wish to know whether, if I myself choose to go into the public newspapers to vindicate any vote I give here, it be not competent for any man, who thinks proper to do so, to enter the same forum, upon equal ground, to show that my opinion is wrong. If I, as a member of this House, or this House as a body, should set forth to the world any opinion upon a matter before us, has not any one a right, through the same medium, to question the correctness of that opinion? Does not that opinion, from the moment of its publication, become public property? Does it not present as fair a subject for discussion as any that can be presented to the mind of man? The object of such a publication of an opinion is to convince the readers of it that a certain proposition is right. If the object of a publication be to convince the public at large that any particular proposition agitated here is correct, is it not competent for any citizen to call in question the correctness of such an opinion? Surely it is. If, then, we have not the power of promulgating our opinions, under the protection of a garb of official sanctity, I should like to know if any other department of the Government has a right to go before the public with a vindication of its opinions, without any citizen who chooses having the right of reply to them, or comment upon them. This body has, I admit, a right to preserve decorum and order within these walls, and to remove from within them any one who may disturb the proceedings of this House. But if, after having acted upon any subject, a majority of this House shall choose to go into the newspapers, to state the grounds on which we have acted, I maintain that any citizen whatever has a right to meet us there, and contest those grounds. Any solitary individual has, under such circumstances, a right to meet and confront the whole body of the majority of this House. If this reasoning apply to the legislative body, does it not, in an equal degree, apply to every other department of the Government? I maintain that it does. Whenever an individual in office lays aside his official capacity, and endeavors by argument and reason to convince others that any thing which he has done officially, has been done properly, he has a right to be met by whomsoever, differing in opinion from him, in any forum which he himself may select. Believing this, I have prepared this resolution, under a deep sense of the duty which I owe, not only to myself, but to the sixty thousand



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freemen whom I represent on this floor. I am not for holding my liberty for one moment at the discretion of any individual. It may be said, sir, in opposition to the object of this resolution, that there will be difficulty in defining contempts of court. Though this may be true, we shall find no difficulty in defining what are not contempts. We can embrace, in any legal provision on this subject, many cases which are not contempts. We might say, for example, that it would not be a contempt of court to express an opinion upon any decision finally made in court, &c. We might declare that it should not be a contempt of court in any one to say that a judge is not immaculate. I beg not to be understood, said Mr. D., as here referring to a case which has been lately before the other branch of this Legislature, sitting as a high court of impeachment. Far be it from me to reflect upon the conduct of any individual, who for such conduct has been constitutionally tried, and legally acquitted. But the law ought to be so clear, that every individual may be able to look to the statute book, and know whether, in any thing that he may do, he acts within the law or not. For the security of the rights of the whole people, and for no purpose of invidious allusion or personal gratification, I invite this inquiry. It is proper, sir, that every individual in the community should know what are the laws which he is bound to observe at the peril of his liberty.

Mr. DODDRIDGE, concurring with his colleague in the expediency of this inquiry, suggested to him the propriety of modifying his resolution, by adding to it these words: "and also to limit the punishment for the same."

Mr. DRAPER accepted this modification.

And, thus modified, the resolution was agreed to without a division.

#### CLAIM OF JAMES MONROE.

The House then took up for consideration the amendment yesterday submitted by Mr. MERCER to the bill for the relief of James Monroe; which was as follows:

"Strike out from the bill all that follows the enacting clause, and insert—

"That the proper accounting officers of the treasury, under the supervision and direction of the Secretary of War, and subject to the approval of the President of the United States, be, and they are hereby, authorized to adjust and settle all the accounts and claims of James Monroe, late President of the United States, upon principles of justice and equity.

"And be it further enacted, That, so soon as any amount shall have been found due to the said James Monroe, it shall be paid to him out of any money in the treasury not otherwise appropriated."

Mr. WILLIAMS moved to amend the amendment, by striking out all after the word treasury, and inserting the following:

"Be, and they are hereby, authorized and directed to examine and adjust all the accounts and claims of James Monroe, late President of the United States, upon the principles of justice and equity.

"And be it further enacted, That the amount of the several accounts and claims, when examined and adjusted, in the manner aforesaid, together with the principle on which each item is founded, shall be reported to Congress for final decision and allowance."

Mr. WILLIAMS addressed the House in support of his amendment.

Mr. SPENCER, of New York, preferred the amendment submitted by Mr. MERCER, to that then under consideration.

Mr. CHILTON addressed the House at some length against the claim, and replied to the remarks of Messrs. SPENCER, EVERETT, and MERCER. Of the two, he had a preference for that of Mr. WILLIAMS, but thought Congress, instead of Mr. Hagner, should settle the claim.

Mr. STORRS, of New York, thought it would be perfectly safe to refer the accounts of Mr. Monroe to the accounting officers. He hoped they would be settled by them, and never come before Congress again.

Mr. HUNTINGTON would vote for the amendment of Mr. WILLIAMS, and trusted that, if that should not prevail, the House would act upon the matter at once.

Mr. MALLARY was decidedly in favor of the claim, and would have been willing to relieve the distinguished individual referred to from all his embarrassments. He should support the amendment of the gentleman from Virginia.

Mr. DRAYTON thought enough had already been allowed to Mr. Monroe. He referred to former legislation of the House, and spoke, not hearing the arguments of others, but from his own experience.

Mr. ANGEL addressed the House as follows:

Mr. SPEAKER: I shall vote for the amendment offered by the gentleman from North Carolina, [Mr. WILLIAMS.] I shall vote for it on the ground that it reserves to this House the settlement of the principles on which the appropriation for this claim, if allowed, shall be made. By the constitution of the United States, the appropriating power is specially confided to this House. As the immediate representatives of the people, the members of this House are responsible for all moneys drawn from the treasury. The amendment, as offered by the gentleman from Virginia, [Mr. MERCER,] proposes to transfer this responsibility to the Executive Department. Sir, the subject of Executive legislation, as it is called, has become the subject of loud and long complaint. Session after session, and day after day, in each session, we hear gentlemen upon this floor uttering complaints against it. I have not made an examination or estimate, but I have frequently heard it asserted, that the amount of money drawn from the treasury, under Executive legislation, is nearly equal to that drawn from it under the legislation of Congress. The complaints against this irregularity are not confined to this House; they appear in the columns of the newspapers throughout the country, and the people at large are strongly inclined to restrain this practice.

By a reference to the debates upon the constitution, when it was before the people of this country for adoption, you will see that strong fears were entertained that, if the entire revenues of the country were placed at the disposal of the Federal Government, abuses would grow out of that power, and appropriations would be made, inconsistent with the public interest. It was urged that no lasting abuse would ensue; for that, by the constitution, the appropriating power was exclusively confided to the immediate representatives of the people; that they were to be elected once in two years, and were immediately responsible for the exercise of their power to their constituents; that, should they attempt to make an improper disposition of the public funds, a speedy remedy could be found in the frequent recurrence of elections. This argument prevailed, and this House was recognised as the safest depository of the appropriating power. Should this House prove recreant to its duty, and refuse to hold the purse strings of the nation, who will hold them for us? When the immediate representatives manifest an indifference as to the appropriation of the public treasure, can we expect that agents, whose responsibility is more remote, will protect the interests which we abandon? Before we sanction an appropriation, it is our province and our duty to know, to understand, and to settle the principle upon which that appropriation is made. The amendment, as offered by the gentleman from Virginia, [Mr. MERCER,] proposes an unlimited appropriation, and refers the settlement of the principle upon which it is to be made to the Executive Department. What principle that department may adopt, and what amount it may award under the provisions of this amendment, should it become a

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law, no gentleman here can tell. We endorse the claim in blank, and hand it over to the party, and to agents of remote responsibility, to fill up.

Sir, I see no necessity for this reference. The claim, agreeably to the statement of the gentleman from Virginia, [Mr. MERCER,] consists of only nine items. It is not a long account, requiring a tedious examination, or a solution of intricate or embarrassing questions: the facts are all comprised within a narrow compass. They are detailed at length in the report of the committee, and may be examined and understood in two hours, by any gentleman who will devote his attention to them for that length of time. They have been a long time before Congress, and I have no hesitation in saying that they are understood by the members of this House, as well as they can be by gentlemen in the Executive Department. To this House the settlement of the question belongs, and, for one, I will not attempt to evade the responsibility of settling it. From the high character of the claimant, the decision of this claim will unavoidably be drawn into future precedent. It is not the amount which Mr. Monroe alone may draw, that I fear. The appropriation of millions to other individuals, for similar claims, may be made under the rule which this case may establish. This is a claim of dollars and cents, asked as a remuneration for services rendered, and moneys disbursed for the benefit of the Government. The rule established for its allowance must serve as a governing principle in all future cases of claims for like services, and like disbursements. Under this Government, we cannot establish a criterion of partial application. That which is "equity and justice" when applied to the claim of Mr. Monroe, must be equity and justice when applied to every other claim of similar character.

From the peculiar character of this claim, and from its general notoriety, I feel extremely desirous that it should be settled by the appropriate tribunal—by the public agents, under an immediate responsibility to the people, who feel the weight of that responsibility, and who can be most readily brought to account for their discharge of this duty.

My objection to sending the claim to the Executive Department for settlement and liquidation, does not arise from a want of confidence in that department. For the President, and his cabinet, I entertain a high regard; but, great as is my confidence in them, I desire that they should not be required to execute a duty not properly devolving upon them. I am also averse to embarrassing them with this question. Let the appropriate duties of each branch of the Government be kept separate, and let each stand responsible for its action. I consider it ungenerous, on the part of this House, to attempt to shift its responsibility to the President of the United States. I have no doubt but that he would do justice; and let him be ever so just, there are those who will endeavor to torture his acts to his prejudice.

Sir, it was with great reluctance that I was impelled to say any thing upon this subject; but, from the course which the debate upon the question has taken, and from the remarks which have fallen from the advocates of the claim, I should have been wanting in duty and respect to myself, had I given a silent vote, without repelling the charges of illiberality and ingratitude made against those who vote against the claim. I am not content to be branded with illiberality or ingratitude, and yield a seeming assent by passive silence.

In doors, and out of doors, every thing that could be put in requisition, has been brought to bear upon this claim. Gentlemen upon this floor have addressed us in the most feeling and pathetic manner, in behalf of the claimant. We have been told of his early, constant, and devoted patriotism; of his long, arduous, and valuable services; of his sufferings, his wants, and his distresses: the

power of eulogy has been exhausted in portraying the virtues and character of the man. Far be it from me, sir, to detract from his merit. I acknowledge the high character that has been assigned him. I acknowledge his patriotism, his services, and the debt of gratitude we owe him. If he be poor, and in want, he has my sympathies; and, were it in my power, consistently with the duties I owe to the station I hold, I should cheerfully aid in his relief; but, in the discharge of my duty to the public, I must be governed by my judgment, not by my sympathies.

In addition to what has passed upon this floor, an extraneous influence has been put in motion, with a view to operate upon the members of this body. Public meetings have been held in different places, and resolutions have been passed expressive of their sense of the justice and equity of this claim. These resolutions have been ushered upon us as the evidence of public sentiment, and universal anxiety of the people for the relief of Mr. Monroe. When it is alleged that, from the complicated nature of this claim, the members of this House, who have examined it, and whose duty it has been to investigate and understand it, are incompetent to decide it, and that it is, therefore, necessary to send it to the Executive Department to be settled, shall we take the expressions of those meetings as the rule of our action? Probably not one in a hundred who attended them, had ever looked into the documents relating to it, or could assign any reason for its allowance, other than that Mr. Monroe deserves well of the country.

The only ground on which this claim could be sustained for a moment, is, that of a pecuniary indebtedness by the Government. Mr. Monroe does not ask us to bestow it upon him as a gift; and should we be so regardless of our duty as to abandon the well established rules of legal adjudication, and, instead of awarding him a debt actually his due, should insult him with the offer of a gift, has he not too much of the American in him to accept it? It is a debt that he claims, and Congress is both court and jury to try the question, and assess his damages. Now, sir, what would be said of a court or jury who, in forming a judgment on a claim for money, should look at, hear, or regard the decisions or recommendations of a town, county, or city meeting? These are designed to express the general judgment on subjects of policy; but they are unfit tribunals to prescribe rules for the legal adjustment of pecuniary demands, and it savors somewhat of the demagogue to apply them in such cases.

Letter writers at Washington have furnished the editors of papers with statements reflecting upon the conduct of members of this House, some for voting against, and others for their inattention to this claim. These letters have been published, and the papers sent here; and is it uncharitable to suppose that the design was to influence the final vote upon this question? Now, sir, in the discharge of my duty as a member of this House, I cannot permit myself to be seduced by any art of persuasion, or intimidated through fear of popular denunciation, to act counter to my views of justice and propriety.

Sir, if it be now in order to advert to the merits of this claim, I will take the liberty to express my opinion upon them. I am aware of the ungracious office I have to perform in opposing this claim. A claim identified with the name, and services, and sufferings of James Monroe, is calculated to draw to it a generous feeling, and to inspire a confidence in its merit.

In 1826, a portion of this claim, together with other items, was pending before Congress. The subject elicited great interest, and underwent a thorough investigation by the members of this House at that time. I then had the honor of a seat here; it became my duty to act upon it, and I bestowed great attention upon its merits. I sat down to an examination with feelings of strong predilection in its favor. I had a high veneration, and boundless

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regard, for the character and services of the man. I felt an earnest desire to find proofs which would authorize me to give it my support. I will not say that I examined it impartially; for my feelings strongly preponderated in favor of the claimant. I was reconciled, then, to an allowance of a portion of the thirty thousand dollars then allowed him; but such was the result of my examination, that I was compelled to vote against the allowance of the whole amount.

Previous to presenting the claim to Congress, Mr. Monroe had applied to the proper department for its allowance. It had undergone the examination and decision of gentlemen who were then in the administration. The examination by the department took place at a period when the facts and the circumstances connected with the claim were fresh in the recollection, and clearly within the knowledge of those whose duty it then was to pass upon it. The gentlemen of the department, who then audited and liquidated Mr. Monroe's claims, were his contemporaries in service, and were his personal and political friends. Not satisfied with their rejection of certain items for extra expenses, and for interest, he presented the question to Congress, and asked that those items might be settled by that body, upon principles of justice and equity. After a lapse of more than fifteen years from the time the subject was passed upon by the department, Congress was induced to pass a bill allowing, in addition to the allowances by the department, the sum of twenty-nine thousand five hundred dollars, which was then deemed and considered by the majority of Congress who voted the allowance, to be an ample and liberal liquidation and payment of all that was due to Mr. Monroe, upon principles of law, justice, and equity; and inserted a clause in the bill, declaratory of its being in full of all his claims upon the Government. It seems that further justice and equity is now called for. If the bill of 1826 was a satisfaction in full of all his claims, the appropriation to be made by the present bill, if it became a law, must be a donation, and not a payment. The Congress of 1826 became the arbiters between Mr. Monroe and the Treasury Department. Their award was obligatory upon the treasury to pay; and, under the terms of the act, the acceptance of the money by Mr. Monroe cannot but be considered as obligatory upon him. Reciprocity of obligation upon the parties must be irresistibly implied.

In looking into the report of the committee of last session, who reported the bill under consideration, it will be seen that upwards of twenty-four thousand dollars now reported as being due to Mr. Monroe, and incorporated in the bill, consists of items rejected by the Congress of 1826. Three thousand dollars and upwards, of this latter sum, is for contingent expenses, alleged to have accrued in England and France during his mission to those countries. In 1826, when his claim for contingent expenses was before the committee, they allowed him for those expenses a sum equal to the average allowed to other ministers in like cases. His charge for those expenses was not backed by vouchers, but exhibited in gross. The charge was found to exceed the average allowed to other ministers by upwards of three thousand dollars, and the excess was therefore rejected by that committee. The balance of this twenty-four thousand dollars is made up of interest alleged to have accrued upon his claims against the Government previous to December, 1810, at which time he exhibited his accounts, and settled with the department. The committee of 1826 rejected this interest, on the ground that its allowance would be contrary to the usage of the Government in all other cases. It was upon the principle that no *laches* were imputable to the Government; that it was always ready to pay its creditors when they should exhibit their accounts, and demand payment. This principle is in consonance with the principles of the common law, which declares that an unliquidated demand

shall not draw interest, though the creditor may omit to make his demand for years. This rule prevails both in law and equity, and the allowance of this interest would be a perversion of the established rule of each. Sir, I object to its allowance in this case, for the reason that it would be a manifestation of fickleness on the part of the Government. It would be an innovation upon its fixed and established rules; those rules to which the claims of all its creditors are subject. Adopt this principle in your settlements, and there are claims enough of this description, to draw from your treasury many millions of dollars. Give notice, by the establishment of this precedent, that such claims are allowable, and you will be overwhelmed with them. Suppose you relax the rule in this particular case only, what will the next claimant say to you when you reject his claim, predicated upon the identical principle with this? Will he not have a right to demand of you even-handed justice? and will he not have just grounds for murmur and complaint, if you try his claim by one rule, and Mr. Monroe's by another?

Sir, it is our pride, and our every day's boast, that our citizens all enjoy equal rights, and are all entitled to equal privileges. What room for comment upon your boasted equality would not the allowance of this claim afford?

In 1826, the items exhibited for services and disbursements amounted to about eighteen thousand dollars. The excess then claimed over that sum was exclusively for interest accrued upon it. The principal was reduced by deducting from it the three thousand dollars before mentioned, and Mr. Monroe was allowed, by the bill passed at that session, above fifteen thousand dollars of the principal of his alleged demand, with the interest on the same from December, 1810, up to the passage of that act; which interest amounted to more than fourteen thousand dollars.

Should we now allow the twenty-four thousand dollars then rejected, we should pay to Mr. Monroe the eighteen thousand dollars of principal he then claimed, with upwards of thirty-five thousand dollars interest upon the same. No such claim ever was, or ever should be, allowed by this Government. Since 1826, several additional items have been annexed to those then claimed. The merits of these items have been canvassed, and clearly explained upon this floor, by gentlemen who have preceded me in opposition to this bill. I will not say that these additional items have since been hunted up, as an apology for allowing to Mr. Monroe a sum of money; but I will say, that it appears to me extraordinary that they should have been omitted when the claim was before presented. I have examined them, and I concur with the gentlemen who have represented their utter groundlessness. It is unnecessary to repeat their arguments, and I will not detain the House by doing so.

We have heard it alleged in this debate that the people of this country desire the allowance of this claim, and that, should its decision be submitted to them, they would be nearly unanimous in its favor. Sir, it is possible that, if it should go to them under the partial representations of its friends in this House, they would declare in favor of its justice; but should the other side of the story be told them—should they be told, as is the fact, that Mr. Monroe had, within the last thirty-four years, received the sum of about four hundred thousand dollars for his services and expenses, which amounts to an allowance of over thirty dollars a day for all that time; that, in addition to this allowance, we voted him money enough in 1826 to load a wagon with Spanish milled dollars, and that we were now called upon to give him sufficient to load two other wagons, it is not so clear to me that they would call us illiberal or ungrateful for withholding it.

Sir, a pecuniary debt to an individual for services rendered, and moneys disbursed, is one thing: a debt of gratitude for his patriotic devotion and unyielding fidelity to the cause of our country, is another. Could I find, amongst the proofs

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exhibited, the evidence of a pecuniary indebtedness to Mr. Monroe, I would be amongst the first to vote its payment. That we owe him a debt of gratitude, I most cheerfully acknowledge; and when a proposition shall be made to grant him a sum of money as a donation, or pension, I shall be prepared to act upon it. How I should act, is now unnecessary to say. "Sufficient for the day is the evil thereof." I cannot reconcile my judgment to voting a donation, under color of paying off a pecuniary demand.

Mr. CROCKETT remarked, that the talking of gentlemen would not change a single vote, and he therefore demanded the previous question; but withdrew the demand on being informed of its effect.

Mr. HAMMONS renewed the demand.

Mr. MERCER and Mr. WILLIAMS both rose to inquire the effect of the previous question. If sustained, it would do away both the amendments, and the question would recur on the original bill.

Mr. HAMMONS would not withdraw his demand.

Mr. WILLIAMS was perfectly willing that the previous question should be sustained.

The demand for the previous question was not sustained by the House.

Mr. WILLIAMS then called for the yeas and nays on his amendment.

Mr. MERCER, in a few words, replied to those gentlemen who had spoken in favor of the amendment of the member from North Carolina, and referred to the statute book to show that seventy-seven cases had been settled on the principles of justice and equity, since the establishment of the present Government.

After a short explanation by Mr. WILLIAMS, the question was put on the amendment offered by him to Mr. MERCER's amendment, and decided in the affirmative—yeas 109, nays 81.

The question then occurring on the amendment of Mr. MERCER, as amended by the amendment of Mr. WILLIAMS,

Mr. HEMPHILL inquired if it would be in order for him to offer an amendment, to supersede that now before the House.

The SPEAKER said it would not be in order; but if the House refused to agree to the amendment now under consideration, the gentleman would then have an opportunity to offer his proposition.

Mr. HEMPHILL desired that the amendment he held in his hand should be read, and it was read by the Clerk, as follows:

"Whereas James Monroe has repeatedly memorialized Congress, concerning certain claims: and whereas several committees of the House of Representatives have reported favorably thereon: and whereas, from the lapse of time, and other causes, an accurate opinion cannot be formed as to the amount, leaving a compromise as the only alternative: therefore,

*"Be it enacted, &c.* That, for public services, losses, and sacrifices, the sum of thirty-six thousand dollars is hereby appropriated, to be paid to James Monroe, immediately after the passing of this act, out of any money in the treasury not otherwise appropriated; which shall be in full of all demands of the said James Monroe for his claims as aforesaid."

The yeas and nays were then ordered on agreeing to Mr. MERCER's amendment as amended; and,

The question being finally put thereon, it was decided in the negative, as follows:

YEAS.—Messrs. Allen, Anderson, Angel, Armstrong, Bailey, Noyes Barber, Barringer, Baylor, James Blair, John Blair, Bockee, Boon, Cahoon, Campbell, Chandler, Chilton, Clay, Conner, Cooper, Cowles, Craig, Cranc, Creighton, Davenport, Warren R. Davis, Denny, Doddridge, Earll, Ellsworth, Findlay, Finch, Ford, Fry, Gaither, Gordon, Green, Hall, Halsey, Hammons, Har-

vey, Hawkins, Haynes, Holland, Hoffman, Hubbard, Hunt, Huntington, Ithie, Thomas Irwin, Jarvis, R. M. Johnson, Cave Johnson, Perkins King, Adam King, Leavitt, Lewis, Lyon, Magee, Thomas Maxwell, McCoy, McIntire, Miller, Muhlenberg, Nuckolls, Pierson, Polk, Potter, Roane, Sanford, Aug. H. Shepperd, Shields, Speight, Richard Spencer, James Standefer, Sterigere, Wm. L. Storrs, Sutherland, Swann, Swift, Taylor, Test, John Thomson, Tucker, Vinton, Weeks, Whittlesey, Williams, Yancey.—88.

NAYS.—Messrs. Alexander, Alston, Archer, Arnold, J. S. Barbour, Barnwell, Beekman, Bouldin, Brodhead, Brown, Buchanan, Cambreleng, Carson, Childs, Claiborne, Clark, Coke, Coleman, Crawford, Crockett, Crocherson, Crowninshield, Daniel, John Davis, Deberry, Desha, Draper, Drayton, Duncan, Dwight, Eager, George Evans, Joshua Evans, Edward Everett, Horace Everett, Forward, Gilmore, Gurley, Hemphill, Hodges, Howard, Hughes, Ingersoll, William W. Irvin, Isaacs, Johns, Kendall, Lamar, Lea, Lecompte, Lent, Letcher, Loyall, Lumpkin, Mallary, Martindale, Martin, McCreery, McDuffie, Mercer, Mitchell, Norton, Patton, Pierce, Pettis, Randolph, Reed, Richardson, Rose, Russel, Scott, Wm. B. Shepard, Sill, Ambrose Spencer, Stephens, Henry R. Storrs, Strong, Taliaferro, Wiley Thompson, Tracy, Trezvant, Varnum, Verplanck, Washington, Wayne, C. P. White, E. D. White, Wickliffe, Wilde, Wilson, Wingate, Young.—92.

So the amendment as amended was rejected.

The question then recurred on ordering the original bill to be engrossed for a third reading.

On this question Mr. HAYNES demanded the previous question; pending which demand,

Mr. MCCOY moved an adjournment; which prevailed.

The House then adjourned.

WEDNESDAY, FEBRUARY 2.

SALT SPRINGS IN ILLINOIS.

Mr. IRVIN, of Ohio, from the Committee on the Public Lands, reported a bill for the sale of lands in the State of Illinois, reserved for the use of the salt springs on Vermilion river, in that State; which was twice read.

Mr. I. moved that it be made the special order of the day for Monday next; but the motion did not prevail.

Mr. I. then moved the third reading of the bill.

Mr. MCCOY said that the practice of the House was not what it ought to be. He was tired of hearing the many motions submitted to make bills the special order of the day—thus giving one subject a preference over others. He moved the commitment of the bill.

Mr. IRVIN, of Ohio, explained the object of the bill. It provided for the sale of certain lands in Illinois, reserved for the use of salt springs. The sales of similar lands had taken place in Ohio and other States, for the use of those States; and he could see no good reason why the same course should not be pursued towards Illinois.

Mr. DUNCAN hoped that the gentleman from Virginia [Mr. McCoy] would not urge his motion to refer the bill to a committee, as such a disposition of it would be equivalent to its rejection. He said that the bill had been reported in conformity with a memorial from the Legislature of the State, and he understood that the proceeds of the sale was to be applied to objects of internal improvement in the State, and the improvement of the navigation of the Wabash river. He said that this subject had been several times before the Committee on the Public Lands, where it had met with some opposition; but he said that committee was now unanimously in favor of the bill just reported, and he hoped the House would now pass it without further delay.

Mr. MCCOY having withdrawn his motion, the bill was ordered to be engrossed for a third reading to-morrow.

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Surplus Revenue.—Claim of James Monroe.

[H. OF R.]

## JAMES MONROE.

Mr. THOMPSON, of Georgia, for reasons which he stated, moved the reconsideration of the vote by which the House yesterday rejected the amendment to the bill for the relief of James Monroe. He said, if he could possibly see a semblance of correctness in the claim preferred to the House, he would cheerfully vote for it. His object was again to get the amendment back again before the House; if that amendment, as amended on the motion of the gentleman from North Carolina, should pass, he would prefer it as less questionable than any other shape that could be given to the bill. He called for the yeas and nays on his motion, and they were ordered by the House.

Mr. MERCER assigned his reasons for voting against the reconsideration.

The question being put on the motion for reconsideration, it was decided in the negative—yeas 98, nays 101.

## SURPLUS REVENUE.

The resolution for printing 6,000 copies of the report of the committee to which was referred so much of the message of the President as relates to the surplus revenue of the Government, next came up; but the hour for the consideration of resolutions having nearly elapsed, the subject was further postponed till to-morrow.

## JAMES MONROE.

The House then took up the bill for the relief of James Monroe—the question being on ordering it to be engrossed for a third reading.

Mr. HAYNES, at the time of adjournment, yesterday, had demanded the previous question; but the House this day refused to sustain the demand.

Mr. HEMPHILL then moved the amendment which was yesterday read at his request, viz.

“Strike out of the bill all after the word ‘That,’ and insert—

“For public services, losses, and sacrifices, the sum of thirty-six thousand dollars is hereby appropriated, to be paid to James Monroe, immediately after the passing of this act, out of any money in the treasury not otherwise appropriated; which shall be in full of all demands of the said James Monroe for his claims aforesaid.”

Mr. HEMPHILL declined entering into any argument in favor of his amendment. Various sums had been suggested as proper to be appropriated: he had fixed, after some attention to the matter, on that proposed in his amendment.

Mr. HAYNES said that, if for no other reason, he should oppose the amendment, because the claim seemed to be put up to the lowest bidder. He had given the subject some attention, and was convinced there was not a dollar due Mr. Monroe.

Mr. CHILTON said he would make one more attempt to get rid of the subject, and with that view he moved to lay the bill and amendment on the table. Negative—yeas 84, nays 111.

The question recurring on the amendment of Mr. HEMPHILL,

Mr. TUCKER opposed the amendment. He said he had examined the matter with considerable attention, and could not discover that Mr. Monroe had any claim upon the Government. He viewed the whole concern in the light of a donation.

Mr. CLAIBORNE called for the yeas and nays on the amendment, and they were ordered by the House.

Mr. WILLIAMS referred to the concluding clause of the amendment, and asked if it would be of any avail. The act formerly passed for the relief of James Monroe contained a similar provision, but it had not prevented the introduction of the present bill.

Mr. PATTON said he did not like the form of the amendment, yet, as he was disposed to go for the substance, he should not take exception to forms. He would move,

however, to strike out \$36,000, and insert \$52,000, as the proper sum to be allowed to quiet Mr. Monroe's claim.

This motion was promptly negatived.

The question was then put on the amendment of Mr. HEMPHILL, and determined in the negative—yeas 93, nays 99.

Mr. HEMPHILL then renewed his amendment, reducing the sum to be appropriated to \$30,000.

Mr. HAYNES demanded the previous question; but the House refused to sustain the demand.

Mr. ELLSWORTH submitted an amendment; but the SPEAKER declared it to be out of order, the House having yesterday rejected a similar amendment.

Mr. POTTER then submitted the following amendment, to come in after the word “sacrifices:”

“In addition to the sum of four hundred thousand dollars, heretofore paid to said James Monroe, for the same consideration.”

Mr. CARSON was sorry to differ with his colleague: he could have wished the amendment had not been offered; but, if it prevailed, it could do no harm to Mr. Monroe. He then commented upon what fell from the gentleman from New York, [Mr. ANGEL,] yesterday.

Mr. ANGEL explained, and vindicated himself.

Mr. BUCHANAN remarked upon the short time that was left, before the close of the session, to attend to the public business. He hoped the claim would be decided on to-day. Mr. B. said that, before he resumed his seat, he would take this occasion to remark, that, after the present generation had been gathered to their fathers, and when the men of other times came to review the proceedings of this day, it would be a stain upon the character of the nation, if we should suffer the illustrious individual who preferred this claim to go to his grave without its adjustment. Such conduct towards an individual, now in poverty and old age, who had rendered most important services, both in peace and in war, to his country, would be blazoned to the world by the enemies of our free institutions, as another proof of the ingratitude of republics.

Mr. POLK said he would be the last man to inflict a stain on the country. He entered into an argument to show that the individual referred to had no claim on the nation. He remarked upon the character of the debate—sometimes gentlemen in favor of the bill argued as if there was a claim, at other times they appealed to the feelings of members. Some gentlemen thought there was a claim upon Congress—others viewed the matter in the light of a gratuity. If he believed there was anything due Mr. Monroe, he would provide for his payment; but he did not believe there was one dollar due him.

Mr. MERCER stated, in reference to the amendment proposed by the gentleman from North Carolina, on his own authority, and as a member of the House, that Mr. Monroe had not received 400,000 dollars from the Government for his services.

Mr. THOMPSON, of Georgia, considered it a solemn duty on his part to oppose the claim, and he should be compelled to vote against it.

Mr. POTTER hoped the gentleman from Virginia would excuse him if he thought that gentleman was not altogether accurate on the subject. He [Mr. P.] had taken some pains to examine into it, and was satisfied that the sum named in his amendment was not far from the truth. He remarked upon what had fallen from the gentleman from Pennsylvania on the score of ingratitude, and expressed his opinion that any man who had filled the Presidential chair, and had been commander-in-chief of the army and navy of the United States, had been fully compensated for all his devotion to the interests of his country.

Mr. WAYNE was of opinion that there was a large sum due to Mr. Monroe, and that it should be paid.

Mr. DORSEY opposed the claim, in a speech of some



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Duty on Salt.

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length; in the course of which he examined the grounds upon which the claim was founded, and replied to gentlemen who had spoken on the other side.

Mr. MERCER made an energetic reply, and repelled some of the assertions made by Mr. D.

Mr. DORSEY rejoined with equal warmth.

Mr. POLK replied to some of the remarks of Mr. MERCER.

Mr. MERCER again took the floor, and animadverted warmly on what had fallen from the gentleman from Maryland, [Mr. D.] He also replied to the remarks of Mr. POLK.

Mr. POTTER now modified his amendment by inserting 354,000 dollars, instead of 400,000.

The question being then put on the amendment of Mr. POTTER, it was negatived, by a large majority.

Mr. RENCHER then submitted the following proviso, to come in at the end of the amendment offered by Mr. HEMPHILL; and stated that, if it was adopted, he should vote for the amendment:

"Provided, The accounting officer of the Treasury Department shall, upon an examination of his accounts, believe so much is due him upon principles of equity and justice."

On motion of Mr. ELLSWORTH, the yeas and nays were ordered on the amendment proposed.

Mr. HEMPHILL, to save the time of the House, said he would accept of the amendment as a modification of his own motion.

Mr. THOMPSON, of Georgia, moved an adjournment; the motion was negatived—87 to 96.

The question then recurring on the amendment of Mr. HEMPHILL, as modified,

Mr. HOFFMAN moved the previous question; the effect of which would have been to take the question on engrossing the original bill. The House refused to sustain the demand.

Mr. WILLIAMS then demanded the yeas and nays on the amendment, and they were ordered by the House.

Mr. HAYNES moved that the House do now adjourn; which motion was negatived—yeas 81, nays 102.

The question was then put on the amendment of Mr. HEMPHILL, as modified, and decided in the affirmative—yeas 106, nays 83.

The question then occurred on the engrossment of the bill, as amended, for a third reading, and the yeas and nays were ordered on the question.

The House then adjourned.

THURSDAY, FEBRUARY 3.

#### DUTY ON SALT.

Mr. MALLARY, from the Committee on Manufactures, reported the following bill:

"Be it enacted, &c. That so much of an act entitled 'An act to reduce the duty on salt,' approved, May 29, 1830, as will take effect on and after the 31st of December next, be, and the same is hereby, repealed; and that the duty on salt imported into the United States be and remain at fifteen cents per bushel."

A very long report accompanied the bill.

The bill having been read the first time, Mr. LAMAR moved its rejection.

Mr. TUCKER objected to the second reading of the bill, and hoped it would be rejected. He regretted that it had been introduced. The tax on salt was complained of, and justly complained of, by the greater part of the American people; it was a tax that operated with great severity on the poor. The tax was laid for war purposes, and should not be continued in a state of peace. An act to repeal the tax passed at the last session, after full discussion, and it was but just that the repeal should take place. We have a bill on the tables of the House, relative

to a reduction of the duties on sugar; was this bill intended to have any effect upon that measure? Mr. T. hoped that every gentleman on the floor, who desired the prosperity of his country, would promptly vote for the rejection of the bill reported from the Committee on Manufactures. Mr. T. defended the vote he gave the other day against the rejection of a bill; he did it with a view to allow an opportunity for discussion.

Mr. MALLARY said, there was nothing unusual in reporting the bill now before the House. The Committee on Manufactures had considered the subject; it was an interesting one; and they had very fully given their views upon it in the report which accompanied the bill. If the gentleman who had just taken his seat, felt irritated at the course pursued by the committee, he could not help it; he claimed the right to present his views to the House, and so did the committee. He was not disposed to go into an argument upon the subject at this time; he should prefer that the bill should lie on the table, and the report be printed, so that gentlemen might have time to reflect upon and understand the question for themselves. He was desirous that the bill should take the usual course—be read a second time, and committed. He assured the gentleman from South Carolina that he had no idea that this measure should have any effect on the sugar bill; nor would the effect of its passage be to operate upon the poor—it was rather intended to relieve the poor. The gentleman had said that the object of his vote the other day was to admit of discussion—his object now was to prevent it, by strangling the bill. If the House chose to reject the bill, he had nothing to say against it, but, before doing so, he should be pleased to have the views of the Committee on Manufactures read.

Mr. SPEIGHT said he had been unprepared for the introduction of a measure of the nature of that now before the House. There had been a full discussion on the subject at the last session, and the House, by a considerable majority, had passed a bill to repeal the tax on salt, now proposed to be continued. In the debate on that occasion, it was declared to be one of the most grievous and oppressive taxes to which any people were subjected. Neither the poor nor the rich, said Mr. P., should be burdened with a tax on an article that entered into the necessary consumption of every family. Pass this bill, and what would gentlemen have to tell their constituents when they went home, this measure following directly upon the act of the last session?

Mr. S. then spoke of the effects which the measure would have upon the people of the South, and said he warned gentlemen to be cautious in their repeated attempts to keep them down. He denounced the vengeance of the South on the majority of this House, if they persisted in a course of measures like those pursued for some years past. Last year, he said, the lords proprietaries of the United States had been petitioned to reduce the duties on salt, and their prayer was granted. Now it was proposed to restore the duties. Would not such legislation create excitement? Yes, said Mr. S., such a system of robbery and plunder will create excitement. Was the South to have no redress of grievances? And when she had thrown herself on the liberality of her sovereigns, and obtained some partial relief, was she to be again subjected to the same burdens? The day was coming when the South would be heard. The oppressive measures under which she labored must be repealed—it will be done—and shall be done. The South was on the eve of a rebellion. Yes, sir, the day is fast approaching, when the people of the South will rise in their majesty, and stalk the avenues of this House, and take vengeance on their oppressors. Yes, sir, and I fear this Government, under which they claim the right to tax us, will be made "to reel and to fro like a drunken man." Sir, I am done.

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Claim of James Monroe.

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Mr. THOMPSON, of Georgia, rose to address the House; but gave way to

Mr. TUCKER, who said that, when the bill should receive its second reading, he should move an amendment to provide for the repeal of the duties on salt *in toto*. He felt sorry that the gentleman from North Carolina had expressed himself as he had done. It was his [Mr. T.'s] wish to put down excitement. Every section of the country was oppressed by this odious tax, except the persons engaged in the manufacture of the article. There was an aristocracy in this House—they had power, and they exercised it to oppress. They were led into error themselves, and they deluded the people. The yeomanry of the country never had been represented on this floor. The object of the tax on salt was to take from the pockets of the poor, and give to the rich; to make the poor poorer, and the rich richer. He implored gentlemen, for the good of their constituents, for the good of the country, to take such steps as would put an end to excitement, by endeavoring to do justice to all. For himself, he cared no more for one section of the country than for another; his object was to do justice to all. The people were oppressed, and, in a measure, slaves; the Union was in danger of being rent asunder, and he feared the day was not far distant. Heaven avert it! Should this be the result, however, of the measures of the majority, they would not only have to answer before the people, but before their God. He was determined that no act of his should bring about such a state of things. Referring to the remarks of Mr. MALLARY, he said it was to him matter of astonishment, how a high duty on any article could make the article cheaper; as well might it be said that a coal black piece of paper was as white as snow. It was a contradiction in terms, &c.

Mr. THOMPSON, of Georgia, next rose, not, he said, for the purpose of discussing the merits of the proposition reported by the Committee on Manufactures, but to beg of gentlemen who are in favor of what is called a protecting tariff, to pause before they proceed too far with it. We of the South, said Mr. T., have been somewhat amused by the prospect of relief from the burdens heaped upon us by the majority in Congress by a repeal or reduction of the duties, and the excitement on that account has always been repressed by the hope of it. But when we get up and tell the House that we are oppressed, and that we must have relief from this oppression, and see how our remonstrances are met by those who are trying to oppress us still further, do gentlemen suppose that we can submit to this? What is the object of gentlemen? Is it their intention to goad us on to extremities? Recurring to the history of the last session, Mr. T. said that it was then solemnly decided, after debate, that the duty on salt was oppressive to the great body of the people, and a law was therefore passed to reduce it. And what, he asked, was now proposed? After this discussion, and the conclusive expression of the opinion of the House that the duty was too high, and ought to be reduced, for what purpose could it now be proposed to reinstate that duty? The chairman of the Committee on Manufactures (for whom Mr. T. said he felt great respect) had said that he had no objection that the bill should lie on the table, that members might have time to reflect upon the subject. In the best feelings of his heart towards the House and towards that gentleman, Mr. T. begged of those who favored this project to pause. For, he repeated—and he hoped that he should not be considered as making a vain boast or threat when he said it—that the people could not submit to this manner of legislation. If it be persisted in, said he, we shall be driven to the necessity of resistance. In discussions on this subject, when I have stated the effect of the existing duties upon the people of the South, I have been told by the friends of the protective system that I did not under-

stand the subject; that the experience of five or six years would convince me that our Eastern brethren were our best friends. I am sure, sir, that no gentleman in this House has ever resorted to this argument to blind me whilst he was robbing my pockets; but, sir, I do feel that I am insulted when an effort is made to take from my pocket my hard earnings, for no necessity of the Government, and for no public benefit. Again I beg gentlemen, I appeal to them as individuals and as representatives of the American people, to pause before they go further. I repeat, that in the South we have looked to a deliverance from the oppression under which we labor, and we have considered the reduction of the duties on salt and some other articles as pledges that we shall not be disappointed. A confident belief that the duties would be repealed, has induced the people of the South, a large majority of them, so far to submit to their oppressive operation. Pass this bill, and I apprehend they will no longer forbear resisting. Mr. T. concluded, by saying that, if the friends of this bill persisted in bringing it before the House, he should move to amend it so as to propose a total repeal of the duty on salt.

Mr. LAMAR then withdrew his motion to reject the bill.

Mr. CHILTON renewed it. He said that, believing, with great deference to the committee, that this bill, if passed, would further oppress the people, not only of the South, but of every other portion of the country—and apprehensive that it would lead to an unnecessary and irritating debate, and, it might be, to a decision of the question by wager of battle, (judging by the excitement of debate yesterday,) to get rid of these discussions, he felt it to be his duty to move the previous question.

A call of the House was then moved by Mr. WILDE, and ordered. One hundred and ninety-three members answered to their names.

On motion of Mr. VANCE, further proceedings in the call were dispensed with.

Mr. McCREERY asked if a motion to lay the bill on the table would now be in order.

The SPEAKER replied in the negative.

The question was then put on the demand of Mr. CHILTON for the previous question; but the House refused to sustain it.

Mr. McCREERY stated that he was one of those who had opposed the reduction of the duty on salt: but he saw no use in agitating the question of restoring the duty at this time. He would, therefore, move to lay the bill on the table. [The motion, however, was declared not to be in order under the pending question.]

[Here the hour allotted for morning business expired.]

#### JAMES MONROE.

The bill for the relief of James Monroe, as yesterday amended, again coming up, and the question being on ordering the bill to be engrossed for a third reading,

Mr. EVERETT, of Massachusetts, said that, however important the passage of the bill might be, there was a vast mass of business on the table, of much more importance, and which it was necessary should receive the early consideration of the House. In order, therefore, if possible, to bring the discussion to a close, he demanded the previous question. The demand was sustained by the House—83 to 40.

Mr. ELLSWORTH inquired whether the preamble introduced by Mr. HEMPHILL constituted any part of the bill in its present shape.

The SPEAKER replied in the negative.

The question was finally put on ordering the bill to be engrossed for a third reading, and decided in the affirmative, as follows:

YEAS.—Messrs. Arnold, Bailey, John S. Barbour, Bartley, Bates, Beckman, Bell, Brown, Buchanan, Bur-

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ges, Cambreleng, Campbell, Carson, Childs, Coleman, Condict, Conner, Coulter, Crockett, Creighton, Crocherson, Crowninshield, Davenport, John Davis, Deberry, Denny, De Witt, Dickinson, Doddridge, Durcan, Dwight, Eager, Earl, G. Evans, Joshua Evans, Edward Everett, Horace Everett, Finch, Forward, Gilmore, Gordon, Gurley, Hemphill, Hinds, Hodges, Holland, Howard, Hughes, Ingersoll, Thomas Irwin, William W. Irvin, Jarvis, Johns, Richard M. Johnson, Kendall, Kennon, Lent, Mallary, Martindale, Martin, McCreery McDuffie, Mercer, Miller, Mitchell, Monell, Norton, Nuckolls, Overton, Patton, Pearce, Pettis, Ramsey, Randolph, Reed, Rencher, Richardson, Rose, Russel, Scott, William B. Shepard, Shields, Ambrose Spencer, Richard Spencer, Sprigg, Sterigere, Stephens, H. R. Storrs, Strong, Sutherland, Taliaferro, Taylor, Test, Tracy, Varnum, Verplanck, Washington, Wayne, C. P. White, Edward D. White, Wilde, Wilson, Wingate, Young.—105.

NAYS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Archer, Armstrong, Noyes Barber, Barnwell, Barringer, James Blair, John Blair, Bockee, Boon, Borst, Bouldin, Brodhead, Caboon, Chandler, Chilton, Claiborne, Clay, Clark, Coke, Cooper, Cowles, Craig, Crane, Crawford, Daniel, W. R. Davis, Desha, Dorsey, Draper, Drayton, Ellsworth, Findlay, Ford, Foster, Fry, Gaither, Hall, Halsey, Hammons, Harvey, Haynes, Hoffman, Hubbard, Hunt, Huntington, Ihrie, Cave Johnson, Kincaid, P. King, Adam King, Lamar, Lea, Leavitt, Lecompte, Letcher, Lewis, Loyall, Lumpkin, Lyon, Magee, Thomas Maxwell, Lewis Maxwell, McCoy, McIntire, Muhlenberg, Pierson, Polk, Potter, Roane, Sanford, A. H. Shepperd, Speight, Stanbery, Standefer, Wm. L. Storrs, Swann, Swift, Wiley Thompson, J. Thomson, Trezvant, Tucker, Vance, Vinton, Weeks, Whittlesey, Williams, Yancey.—92.

The bill was then ordered to be read a third time today.

Mr. RAMSEY gave notice that he would, on Monday next, call up the bill regulating the compensation of clerks in the Post Office Department, together with the amendment proposed by him on the 31st ultimo.

#### MINISTER TO RUSSIA.

The House then took up the bill making appropriations for the support of Government for the year 1831—the question being on striking from the bill so much as relates to an appropriation for the salary of the minister to Russia.

Mr. CHILTON was entitled to the floor, but declined addressing the House.

Mr. POLK demanded the previous question, but the demand was not sustained.

Mr. BURGESS then again rose. Permit me, Mr. Speaker, said he, to justify myself, under all which has been said, both against me, and against whatever has been advanced by me in support of the motion made by the gentleman from Ohio. With the indulgence of the House, it may be well to look back to the question made by this motion; for gentlemen, in their zeal to eulogize the minister, or to abuse those who doubt the correctness of his appointment, have departed almost entirely from the matter in issue before us.

The objection to this appropriation, and the motion to strike it from this bill, have been made, because it is proposed for payment of a salary to a foreign minister, who, by his commission of legation, or by certain secret articles given to him, is authorized to leave the court to which he is sent, to go to any other country, whenever, in his own opinion, his health may require it; and not to return to that court so long as, according to the same opinion, it may be injurious to his health to do so. We deny such mission to be a legal one; we deny that the salary provided by law for foreign ministers, is, or ever can be, due

to any man sent abroad under such credentials, with such privileges reserved, and such powers granted to him, not to the public, but to his own use. The objection to this appropriation has, therefore, not been made because the gentleman was, when sent abroad, and had long been, a valetudinarian; or because, if then in health, that health, exhausted by the toils of diplomacy, might require refreshment by relaxation and relief from public service. No, sir; nor because that refreshment might not be found unless under a milder sky, and by removing to a more genial climate than that of Russia. Such things may excite, as they certainly have excited, the special wonder of the nation; and they are, and will be, very proper topics of debate, when considering the “State purposes” of this mission; but they have not been, nor will they be, made the grounds of objection to the appropriation of this item in the bill.

We object to this salary on account of the illegality of this mission, and because the Secretary of State, knowing the enfeebled health of Mr. Randolph—knowing his inability to attend to the laborious details of that public service—knowing that his constitution could not endure either the winter or summer climate of Russia, did invent this mission, and did advise the President to send out this gentleman with credentials as envoy extraordinary and minister plenipotentiary of the United States at the court of his Imperial Majesty the Emperor of Russia; and at the same time to give him a commission, no matter for what cause, to reside, as such minister, in whatever country he might choose to reside. Such a mission cannot be formed—such a minister cannot be sent abroad, either under our laws or our constitution, or under the usages and laws of nations. I ask the attention of the House, therefore, to the inquiry, whether this salary can be due for an illegal and void mission? whether it can be due as a *quantum meruit*, or as a *pro rata* compensation for the services which were rendered at the court of Russia? or, last of all, whether it can be due, because this mission may subserve certain purposes, highly useful to the Secretary of State? Before these inquiries can, to the best purpose, be made, it is proper to give some reply to what has been offered by several gentlemen against this motion. These gentlemen have said less to support this appropriation, than to impugn the motives of those who oppose it. With my motives the gentlemen are welcome to amuse themselves. The storm of their abuse passed over me as the winter storms of my native New England have often passed over the humble dwelling of my boyhood, without shaking a stone from the chimney, or starting a shingle on the roof. I have too much respect for myself to believe that they have abused me from the wantonness of malice, but do believe it was done simply because they could find nothing to say more appropriate to the question.

This motion has been made to protect the rights of the nation against the encroachments of power. Those who resist such encroachments and assaults of power, must always expect to encounter vociferous, if not infuriated, adversaries. I have not entered this warfare without “counting the cost.” A school of high authority taught me that, in a war of aggression, “He who takes the sword shall perish by the sword”—but in a war of defence “let him who has no sword sell his coat and buy one.”

How, then, has our defence been met and answered? How by the gentleman from Virginia? [Mr. BARBOUR.] First of all, I am accused of objecting to this appropriation, because it is for the use of a Virginian. In this the gentleman is utterly mistaken. I informed him of this error in a few moments after he had taken his seat. He has, notwithstanding, chosen to put this error in print. Suffer me, sir, in my place, and before this House, to protest against this procedure. The gentlemen who heard me then, and who do me the honor to hear me now, I call to witness that I said no such thing; and I should have

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nothing to regret, could my protestation be made the printed companion of the gentleman's allegation against me, and travel side by side with it under the eye of the nation. This, I know, cannot be done; and I must suffer the imputation wherever his speech is read, without my correction of its errors. Be it so: but I believe there is too much good sense, and too much moral sentiment, in Virginia, to set down one of their fellow-men as quite so stupid, or quite so malevolent.

The gentleman alleges that I considered this mission as a bribe offered to Virginia. This might have been said by me, because I believed it to be true. If said, was it said, or could it be intended, in derogation of Virginia? Is Virginia dishonored by this attempt of the wily Secretary? I did not, and no man will intimate that Virginia had even looked with a favorable eye on this bribe, this splendid bestowment. Not those who hear, but those who listen to the song of the siren, and are allured by the enchantment, become debased by the temptation. Sir, temptations are spread over the whole path of our lives, from the cradle to the grave. The enticements of pleasure beset our youth; the toils of ambition are spread for our vigorous manhood; and in old age, the honest *amor habendi*, when all other loves are frozen in the heart, allures the dim eye to gaze at, and the surd ear to listen to, the glittering beauties and golden melodies of avarice. Are we dishonored, because, in the language of Sir Wm. Jones, "vice is permitted to spread her snares around us, that the triumph of virtue may be more conspicuous?" The ermine of the judge is not tarnished because some unprincipled litigant has craftily proffered a bribe to the court. The name of the insulted Lucretia has arrived to us after a journey of more than two thousand years. Is it soiled by time, or by the breath of any one of the millions of millions who have pronounced it? That name, sir, like the Alps of her own Italy, whose tops nearest to heaven are covered with eternal snow, is the monument of imperishable purity—while the name of the treacherous and cowardly Tarquin, scarred with infamy, will be, as it has been throughout all time, the name of whatever is most vile and odious. Sir, Virginia is not dishonored; the tempter, and not the tempted, will suffer the infamy of the deed.

The gentleman from Virginia [Mr. BARBOUR] would overthrow our objections to this appropriation, by eulogizing the man sent on the mission. He alludes to the monuments of Mr. Randolph's fame; and, lest men might call on him to show where they are, he has placed them in the hearts of his countrymen, where no being but "the searcher of hearts" could discover their existence. What indications has Virginia given that those monuments are where the gentleman has located them? He has long been a representative in Congress from that State. This is something in his favor; but, from a State so long separated into districts, it is not conclusive. It is confined to his constituents, and only proves what the gentleman himself has often asserted on this floor, "that never had man such constituents." He represented the whole State in the Senate—true; but this was for the fragment only of a term. Why was he not re-appointed? The interests, the honor, and high dignity of Virginia had been placed under his guardianship. How did he perform the offices created by these trusts? His conduct as a Senator from Virginia was brought before the Legislature of that State, on a question concerning his re-appointment. In this great Arcopagus, than which none is more dignified, each judge, if he had a monument of this man in his heart or his house, read the inscription upon it. On what was he tried? Not on his political creed—he did not suffer, as the best of men have, for heresy. His faith was, for every purpose beneficial to himself, sound; his works alone were brought into question. On this question a deep and interesting debate arose. The gentleman may have been

present and heard it; or if not, as it was published, he must have read it. It belonged to Virginia, and was a part of her great commonwealth concern: nor would I have brought this wholesome example of family discipline before the nation, had not the eulogist of this froward son of Virginia told us that the monuments of his exploits were in the hearts of his countrymen. Does this debate, or the result of it, confirm the gentleman's assertion? He was weighed, and "*mene mene tekel upharsin*" was written on all his monuments. He was rejected, and a distinguished Virginian was chosen to represent that State in the Senate, and restore her ancient honor and dignity in the councils of the nation.

I ask again, where are the monuments of this man's glory? Has he improved his native State in the great arts of civil life? In agriculture, his own peculiar vocation? It has never been said of him. Have manufactures been fostered by his encouragement? Sir, the very name is odious to him. The sheep, the most innocent of all animals, and supplying by its wool the material for perhaps our most useful manufacture—the sheep is so hateful to him, that, with all the poetry of the golden age in his blood, this gentleman has said, "I would go twenty rods out of my way to kick a sheep." Commerce has been as little encouraged by him as either of her sister arts in our family of national industry. He is one of a class of men, now grown quite small in our country, who despise traffic and traders; and would have considered Cosmo de Medicis, the princely merchant and founder of Florence, as no better than a tin pedlar. He is literary, moral, I trust pious; but what has he done to advance learning, morality, or religion? In this House, where he so long had a seat, where are the fruits of his sage councils; the laws originated or sustained by his eloquence; and which will carry his name to posterity, as a patriot statesman? When the gentleman shall point to these monuments, and show them to belong to Mr. Randolph, he may realize a fame somewhat less fugitive and perishable than mere words.

The gentleman from Virginia [Mr. BARBOUR] would carry my opposition to this salary to mere political account; and says I am opposed to it because Mr. Randolph overthrew the fabric of federal power. Be it so; let the man enjoy the entire fame of all the benefit, and all the mischief he has done. I had no share in that power, which every citizen did not equally enjoy. It gave me no honor, no emolument. I do not believe, and I think thousands who aided in its overthrow do not now believe, that any structure, since that time erected on its ruins, has given a holier sanctuary to the constitution, or a more secure shelter to the rights and liberties of the people. If this giant partisan did overthrow that fabric, he could not bury under its ruins the great principles of the revolution—"Union and independence," the song of my cradle, the political creed of every hour of my life, and not sooner to be forgotten than the sainted bosom which nourished my infancy. What did this man build, what could he build, in its place? Sir, when daylight first dawned on the world after this event, John Randolph sat, in the glimpses of morning, like the genius of the earthquake amidst the ruins of some splendid city, without the power or the will to move a single stone to rear a new edifice. Nay, sir, when the statesmen of those times, forgetting the storm of party, set themselves in earnest to rebuilding, this man of monuments resisted their labors. Little does the gentleman know me, if he believes I feel anger at the labors, or envy at the fame, of the man whom he has eulogized. He will be remembered, when much better Virginians, and perhaps the gentleman himself, may be forgotten; but he will be remembered as the years of mildew, and blight, and famine are remembered, when those of plenty and prosperity are forgotten. He may live in story, but not, like Washington, "in the hearts of his countrymen."

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Minister to Russia.

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I should have said no more of the secretary of legation, had not the gentleman transmuted his confirmation by the Senate, into the Roman ceremonial of bestowing the *toga virilis*. This toga, this gown, was, in the open forum, given annually by all the Romans to all their boys who had, during the year, arrived at the age of seventeen years. By this classical allusion, I presume the gentleman intends to assure us that Mr. Randolph's secretary of legation has fully arrived at that interesting period of his life. I had asserted that he was twenty-one; but I willingly admit the gentleman's correction.

The other gentleman from Virginia [Mr. COKE] has reinforced his colleague. Will these gentlemen never have done with misstating me? Have I reproached Virginia? Never, sir, never. When speaking of any one of her citizens here, I have spoken of him as an American citizen. When speaking of that State, I have, on this floor, and elsewhere, spoken of her as one which poured her whole Spartan soul into the revolution, which sent to the field of conflict a band of patriot warriors, "who have filled the world with their and our glory;" and which, to secure the benefits, in addition to the triumphs of victory, relinquished her territorial claims to an empire, preferring, to State sectional interest, the more glorious objects of union and independence. I reproach Virginia! Is it not the birthplace, is it not the burial place, of Washington? Sir, who can reproach that most fortunate, most consecrated region; or even suppose the enormity possible, "and hope to be forgiven!"

I have, as the gentleman says, abused the President, and his Machiavelian policy. I have spoken of the President as of the first dignity of the nation, and in no terms of disrespect. I have alleged that, like monarchs in the old world, he has been advised by ministers; and, under that advisement, has permitted those ministers to furnish, in his name, his annual message to Congress. Will the gentleman pledge his literary reputation upon a denial of this allegation? I have said the President has been mis-counselled; has suffered his confidence to be abused by an artful minister; and that, too, in this very appointment. I put it to the gentleman, upon his conscience, to say whether he believes this question could have come up, in this House, if Mr. Tazewell had been Secretary of State.

Of the Secretary of State I have spoken, and will speak, as I believe he merits. He is a power constitutionally connected with the Executive; but now, like the parasite plant under shelter of the oak, it has crept, and clasped, and wound itself around the trunk, spire above spire, until it overtops the loftiest branch of the magnificent tree. The leaves of the ivy will soon conceal those of the oak; and, unless the insidious plant be removed, render it a sapless trunk.

The gentleman recommends to us charity, christian charity. Where does he learn that the delinquencies of rulers are to be visited only in charity? While the messenger of divine charity wept over the coming ruin of his nation, did he not severely rebuke those rulers, that generation of vipers, stinging and poisoning that nation, and hastening on that destruction?

Sir, we are charitable. The people have looked on in charity. Charity has done her utmost. Her "mantle has covered a multitude of sins;" but the brood has multiplied, and increased in size, and outgrown the covering.

This gentleman unites with his colleague in eulogizing Virginia. It is all supererogation. History has done it justice. The lofty-minded matron, we knew, thought well of herself; but no one deemed her quite so proud as the gentleman has announced her to us. In wielding the broom, or scolding her household, she may well scorn Neptune's trident, and Jove's power to thunder, as the gentleman says she does; and some of her children have given us fair samples of the family lectures.

The gentleman from Georgia [Mr. WAYNE] has come forward to support this "State mission." To support, do I say? His effort seems rather suited to rebuke me, and those engaged with me in support of this motion, into utter silence. Nor would he silence us only, but stop the public press. Silence this House! silence the public press! what more can be required for the establishment of a despotism over national opinion!

The gentleman has advanced an argument on the question. It is drawn from analogy. He will permit me to say that such arguments are, of all others, the least conclusive. Founded on the resemblance of things, they have all the uncertainty of their foundation. He who should affirm that all human forms are alike, would affirm the truth; but what conclusion could be drawn from it? For he who should affirm that all human forms are different, would equally affirm the truth. The gentleman affirms that we ought to make this appropriation to pay this salary, notwithstanding Mr. Randolph, by permission of the Executive, left the court of Russia a few days after his arrival there, and has not returned, or may not return, to that court again. He alleges this, because the members of Congress are paid, notwithstanding they may be taken sick, either on their journey hither, or while here, or on their return home. It is true; but the analogy between the cases extends no further. Suppose a case just like Mr. Randolph's; suppose a member of this House arrive here, is here taken sick, and, on leave of absence, departs from this city for Charleston, Savannah, or New Orleans, to regain his health, and does not return during the session; would he receive his pay? Could he receive it? I regret the gentleman thought it proper to say that we, in support of the motion, had used falsehood; "a thing equally dishonorable in argument, with the use of poisoned weapons in war." I regret this, because I had expected from him nothing but what was fair in debate; and pure, classical, and urbane in language. This expectation had been sustained by my own attention to the gentleman's demeanor in this House; but it had been raised by the report of him, made to me by one in the relations of friendship to him, and than whom no man on earth is dearer to me. Will the gentleman do himself the justice to mark and point out the items of falsehood set down and used by us in our account of objections to this appropriation?

All these gentlemen agree in the argument against this motion, drawn from the incompetency of this House to question this appropriation. The President and Senate, to whom the constitution has confided our foreign relations, have, they tell us, established this legation; and this House cannot, as they affirm, refuse this appropriation in support of it. Are we placed by the people as the constitutional keepers of the public treasure, and yet bound to follow every Executive call for their money? Is it our whole fiscal duty to obey orders, and grant subsidies? Does not deliberation, and debate, and discretion, belong to this House? We can grant, and every power which can grant is, by its very nature, endowed with the power of refusal. Sir, our power to refuse appropriations is the constitutional check placed in our hands not to stop, but to regulate, the movements of the Executive. Without this power, and its discreet and diligent use, the nation would be at the disposal of the President and cabinet council.

Sir, this mission may be regarded as the commencement of a system of sinecure appointments, of salaries without services. Sent to one court, where he did nothing; and, in the exercise of his powers, gone to another, where he can do nothing, what service is required, or was, or could be, expected from him? When he shall return next June, what will he have done? His most zealous friends must say, nothing. If, then, he receive this salary, he will receive it without service of any kind rendered to the



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nation for it. The Secretary does avow, in the message, that the "power to leave the Russian court for the advantage of a more genial climate, was given to Mr. Randolph, in consideration of the extent to which his constitution had been impaired in the public service." What were those services? The duties of a member of this House or of the Senate, and for which he received his legal compensation, like every other member. Was "his constitution impaired" by these services? Were not the constitutions of others impaired, and even their lives consumed, in like services? Is this gentleman alone selected for a place where he may, "in consideration of the extent to which his constitution has been impaired by those services," receive in one year the sum of \$18,000? This, sir, is the first pension for civil service on our records. How many hearts of revolutionary soldiers would this have made glad? Into how many abodes of desolation and widowhood it might have carried the light of joy, and brought on you the blessings of how many now ready to perish? Such a system of sinecure appointment and civil pensionage may be extended alike to the courts of all civilized nations, and to the hordes of Nomadic barbarians, requiring no residence, either near the palaces or tents of the foreign Power; the formality of a visit and a presentation may soon be omitted, and the envoy extraordinary and minister plenipotentiary will, "in consideration of his public services," be permitted to receive his outfit and salary, while he continues to reside on his plantation.

What a scheme of speculation does this system open to the crafty and unprincipled, to men always at market either to sell themselves or to buy others! By this, unstable politicians of every variety of creed may be kept to the true faith. By this, tempest-beaten partisans, shipwrecked in principle and fortune, may be towed into port, and laid up and preserved for future use. Establish this system, sir, and add to it a Government treasury bank, and the Secretary might buy into the Presidency, with your own money; nor, like that Roman who bought the imperial purple at auction, be obliged to lay down his own gold and silver for the purchase. Shall we, sir, through any fear of transcending our jurisdiction, give our sanction to such a system? A bolder stand than is now required was taken sixteen years ago, on this floor, by an honorable member, now high in office, and presiding over the deliberations of the other House of Congress. "I will," said he, "vote no appropriation for the navy until the Secretary of that department is removed." What was the result? The Secretary was removed; and the naval branch of the service did receive, as it always has received, his cordial and efficient support. In 1795, when the appropriation was under consideration for carrying into effect the second treaty with Great Britain, Mr. Gallatin declared, in this House, that a treaty had no binding force as a law of the land until such appropriations were made; and that this House, holding the power to control such appropriations, held the constitutional power of rejecting treaties. Mr. Madison contended that this House had the right to judge concerning the expediency of treaties; and, as they might decide that question, to grant or refuse appropriations for carrying them into effect. This case does not require the aid of these doctrines; for public faith will not be touched in our foreign relations, if Mr. Randolph should not receive a salary for residing in England as minister at Russia. Has the gentleman from Virginia [Mr. J. S. BARBOUR] forgotten that the motion to strike out the enacting clause of the bill appropriating salaries for the Panama mission was sustained by sixty-one members of this House, and that he himself, with nine of his colleagues, voted for it? Will gentlemen still contend for their own incompetency to question this appropriation? Sir, we are, by the constitution, vested with a high competency and discretion on

these important matters; and to these constitutional attributes of this House has this motion been addressed.

It is humiliating, said Mr. B., but I must reply to the gentleman from New York, [Mr. CAMBRELENG.] For myself I would let him pass. It is a kind of Domitian amusement, this killing flies with a bodkin. Gladly would I say, with the commiseration of Uncle Toby, to the little buzzing inconvenience, (when I have him in my hand,) "Go, poor insect, go; the world is surely wide enough for thee and me."

I have some apology for giving some attention to the speech of the gentleman from New York. The place, however it may be filled, does give a kind of character to what is said or done in it. No matter how utterly inconsiderable, or even contemptible, a person may be, whenever a constitutional portion of the people has placed him at one of these desks, replying to what he may have said, though it may not be very creditable, yet must be excusable, in any member of this House. The Romans were wont to place a wooden image in their gardens, as the special protector of the place; and Horace has related to us the soliloquy of one of these Roman deities, wherein he gives some account of his own apotheosis: "I was," said the Priapus, "a useless log, until the carpenter took me in hand: but he has now worked me up into a god!" The people of New York can surely turn out as good work as the Roman carpenter.

We are by this learned and honorable gentleman reproached for a want of magnanimity; and are told that no objection, for any such cause, was made by him and his party to any appropriation. The true difference between his and our efforts will be found in this: we labor to save money from illegal and useless appropriation; he labored to abuse those who had, in pursuance of legal and useful appropriation, honestly paid it away.

What were the doings of this magnanimous gentleman in a committee of which he was a remarkable member? Here is the record-book of that committee. I have selected, as an ordinary sample of this gentleman's labors of retrenchment, four cases, and will trouble the House with a few quotations, and a few remarks upon them.

On the 25th of April, 1828, the committee being in session—

"The chairman then stated to the committee, that he felt it his duty to mention that a citizen, now a resident of this District, had inquired of him whether, in any of the accounts of the contingent expenses of the Government, the United States were debited with the sum of five thousand five hundred dollars, paid to the late Daniel P. Cook, late representative in Congress from the State of Illinois, for certain diplomatic services, upon which Mr. Cook was supposed to have been sent abroad during the last summer."

"The chairman stated that he did not feel at liberty to communicate the name of his informant, but in regard to the purport of the communication he felt no such reserve; and it was for the committee to make such order on the statement as they might deem proper.

"It was, on motion of Mr. CAMBRELENG,

"Resolved, That the committee consider the communication."

Sir, this committee, under this resolution, sent for witnesses: honorable members of both Houses, and the Postmaster General, were called before them. Why not call for the man himself, for Daniel P. Cook, against whom this anonymous information had been made? He was dead. The man at whom the gentleman from New York magnanimously aimed his arrow, slept quietly in the green bosom of his own beloved Illinois. The voice of the nameless informer, embodied by the resolution of the gentleman, though it might pollute every threshold, and violate the harmony of every house in the nation, could not reach the sanctuary, or interrupt the repose of the

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tomb. Permit me to speak a word concerning Daniel P. Cook; because every man who hears me did not know him, as many of us did, who sat in this House with him. He was a man whom the gentleman from New York would probably not call a genius; but his mind was of that cast and capacity in the transaction of human affairs, to which every man would wish to commit the management of his own. His sense was that of the every day intercourse of men; and would pass, like the most precious or most useful metals, wherever such a commodity could be in request. A man, in whatever may be required of manhood; a child, in all that singleness of heart and purity of purpose which render childhood so amiable. With those who knew him well, he had so fixed himself in their hearts, that though they might wish to forget the pain of their loss, they can never cease to remember his useful public labors, and many endearing social qualities.

Our relations with Cuba have long been interesting and important. Gentlemen will call to mind that we have frequently heard from Europe that Cuba might be transferred from Spain to some other sovereignty. Such a report was rife in this country in the winter of 1826-'27. It was believed by friends of the last administration, that a confidential agent was by Mr. Adams sent to Cuba, to ascertain, if possible, the truth of this report; and that Daniel P. Cook was that agent. He had, it was believed, been paid out of that fund which Congress has ever since the foundation of the Government annually or otherwise appropriated, and placed in the hands of the President, for the compensation of confidential services. All this may be known to the gentleman from New York now; and, had there been fraud in the transaction, we should have heard it on this occasion, called, at his mouth, by its harshest English name.

The gentleman might have known the whole affair at that time. This appears from the following letter from Mr. Clay, then Secretary of State:

DEPARTMENT OF STATE,  
*Washington, May 1, 1828.*

SIR: I have received your letter under date this day, stating that "it having been ascertained that the late Daniel P. Cook, late a representative in Congress from the State of Illinois, received a sum of money from the Government, during the spring or summer of the last year, for certain services supposed to have been either foreign or diplomatic, you are instructed by the Committee on Retrenchment to request me to inform you where they are to look for the auditing of the sum said to have been received by Mr. Cook, and, if not audited in the usual course, what was its amount."

Without admitting or denying the correctness of the information which the committee are stated to have received, I have the honor to observe that I am not aware of the disbursement of any money through the agency of this department, the account of which has not been, or, in a regular course of settlement, is not to be, audited in the usual way at the treasury, or passed upon a certificate of the President, in conformity with the provisions of the 3d section of the act of the 1st of May, 1810, entitled "An act fixing the compensation of public ministers and consuls residing on the coast of Barbary, and for other purposes." I cannot presume that it was the intention of the committee to inquire into any disbursement which may have been made agreeably to that section; and all others are accessible to them, in like manner with other expenditures. I have, however, the authority of the President for saying that I will make to the committee a confidential communication, in relation to the expenditure to which they are supposed to allude, if they will signify their desire for such a communication. In that case, I should be glad to learn their pleasure as soon as convenient, as I

purpose leaving the city, on the 4th instant, a few days, on account of the state of my health.

I have the honor to be, with great respect,

Your obedient servant,

H. CLAY.

TO JAMES HAMILTON, JR. ESQ. &c.

Why not receive and communicate this confidentially to the House? Every statesman must perceive at once the indecorum of giving it to the House in any other manner than confidential. What! place on our ordinary journal, publish in our papers, and send to Europe, that the friendship of General Vives, the Intendant General of Cuba, had induced him confidentially to communicate to the agent of our Government, concerning the disposition of Spain to sell, and of England to buy, the colonial sovereignty of that island. A confidential communication would not do. A plain, honest, and full statement of facts was not wanted. The magnanimous gentleman from New York wished to strike a blow at the President and Secretary; he chose to do it by mining; and if, in his subterranean course, he should dig into the grave of Daniel P. Cook, how could he doubt that the exigencies of the public service would justify this violation of the sanctuary of the tomb? He chose to follow the trail of an informer, who had so little confidence in this inquisition, that he would not "commit" even his own foul name to the gentleman's safe keeping. Mr. Cook, it was known, was in very delicate health, and was about to visit Cuba for the benefit of the climate. In the examination of the witnesses, the whole labor of the gentleman was directed to prove that the state of his health would not permit his doing any public service, and that, if he received any compensation, he must have received it for nothing. The gentleman was discomfited by the result; for it came out in evidence, that, feeble as was his health, he had performed all that was required of him. His compensation was not ascertained; but it is probable, say the committee, that he received more than one thousand dollars; and this is set down by the magnanimity of the gentleman as an act of "Executive favoritism, or flagrant abuse."

Compare this service and expenditure with the mission, and minister, and appropriation, now under debate. Mr. Cook was in delicate health; but that served to place him above suspicion of any sinister purpose in visiting Cuba. His acquaintance with General Vives, while in this country, the known integrity and obvious simplicity of his character, the amenity of his manners, and even his delicate health, all combined, must have placed him at once in relations of entire confidence and frank intercourse with the Intendant, and enabled him to obtain speedily from that Governor all which it was proper for him to communicate, or for our Executive to know. Let the gentleman taunt us for a want of magnanimity. Let the nation judge between us.

The next case in this record, to which I ask your attention, is that of John H. Pleasants. The House will have a full knowledge of this case from two letters, the first from Mr. Pleasants to Mr. Clay, the second from Mr. Clay to the Committee on Retrenchment.

*Mr. Pleasants to Mr. Clay.*

LIVERPOOL, July 7, 1825.

MY DEAR SIR: If you are surprised at the date of my letter, I am scarcely less surprised at the circumstance myself. To be in England at all, is what I never expected. To be here when I expected to have been in Buenos Ayres, seems rather the effect of enchantment, than of ordinary causation. It remains, sir, for me to account for this apparent dereliction of duty; and I cannot but hope that a plain statement of the circumstances which changed my destination, will exculpate me from any blame in your eyes, solicitous as I am to preserve that good opi-

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nion which procured for me the charge conferred by the Department of State.

After many ineffectual attempts to secure an earlier passage, in which I was baffled by the diminished intercourse between the United States and the provinces of South America which lie beyond the Spanish Main, I succeeded in procuring a passage in the brig *William Tell*, which sailed from New York on the 28th May for the River Plate. This vessel was not such a one as I should have selected, had I had my choice. Being simply a merchant ship, it was destitute of comfortable accommodation; nevertheless, becoming impatient for action, and foreseeing that if I neglected that opportunity, I might meet with no other, I availed myself of it, and, as stated, on the 28th May. I speedily had cause to regret my precipitation in choosing such a ship. The cabin, not fifteen feet square, was destined to accommodate, in a voyage which would occupy from sixty to ninety days, twenty-five passengers. \* \* \* When the horrors of sea-sickness were superadded to the other painful circumstances attending my situation, my sufferings became greater than I can describe. Deprived of every comfort, with not ten feet square for exercise, a pestilential air, and most offensive smell, pervading every part of the ship, and even without the most common medicines, I assure you, sir, that death would have been no unwelcome visitor. I was seized with a high fever, and in ten days reduced, in my own opinion, and in that of those around me, to the brink of the grave. At this time, we spoke an American ship from New York, bound to Antwerp: the captain, who was likewise ill, was bearing for Fayal, in the Azores, and, by great persuasion, was induced to take me on board, in a miserable condition. Two days after this removal, my new captain recovered his indisposition, and resumed his course for Antwerp. Having no inclination to visit Holland, I determined to avail myself of the next ship that we might speak, and return to the United States, or go to England. From the time that I boarded the vessel in which I then was, I had begun slowly to recover, from the superior comforts of its accommodations. On the 20th of June, we spoke the brig *Olive*, from New York to this port, and the captain consenting to receive me, I arrived in Liverpool on the 1st instant, having been at sea thirty-three days. The despatches which were entrusted to my care, I forwarded to Mr. Forbes, in charge of Captain Hinman, of the *William Tell*, to whom he was consigned; stating the reasons of my not bearing them in person, and requesting him to forward those for Mr. Raguet at Rio. If the *William Tell* goes safely, the despatches will safely reach their destination.

These, sir, are the circumstances which have brought me to England, and I hope that they are such as to excuse my abandonment of my charge. As I am here, I have determined to devote a few weeks to the purpose of seeing the country; after which, I shall have the pleasure of giving you, in person, a more detailed account of my voyage.

With high respect, your obedient servant,

JNO. H. PLEASANTS.

*Extract of a letter from Mr. Clay to Mr. Hamilton, chairman of the Committee on Retrenchment.*

"It was not believed that the visitation of Providence with which he was afflicted, ought to deprive him of all allowance for expenses, and all compensation for services; but it was not thought right that the per diem should be continued during the whole period of his absence from home, and until his return to New York, on the 22d October, 1825. It was therefore limited to the 22d August, 1825, that being the time when it was estimated he might have returned to the United States, if, after abandoning the voyage to South America, he had sought an oppor-

tunity of coming home, instead of proceeding to Europe. It was within the discretion of the department to have compensated him as the bearer of despatches from Mr. King; but it was not deemed proper to make him any allowance for that service."

Were these explanations satisfactory? What did the committee say then? These are their words:

"Amidst the numerous appointments of messengers made by the present administration, they will select the account of J. H. Pleasants, editor of the *Richmond Whig*, because that case, in their estimation, presents the most flagrant example of abuse."

"Either his despatches were or were not of importance: if they were of importance, like a soldier on post, no consideration should have induced him to have deserted them: if they were of no higher importance than to have rendered it safe that they should be confided to the captain of an ordinary merchant vessel, then they should have gone through this channel, and Mr. Pleasants ought not to have been appointed."

Sir, Daniel P. Cook was pursued by the gentleman, because he was dead; John H. Pleasants was in like manner pursued, because he was alive.

The case of Mr. Brooks is another on this record. He was a clerk in the office of the treasury. Grown old and becoming enfeebled, his fellow-clerks, with a generosity of purpose peculiar to themselves, performed his duties in the hours of recess, or by extra labor, and permitted this aged and destitute man to receive one-half of the salary. This instance of redoubled diligence and charitable provision for a superannuated fellow-laborer, in these generous men, is set down in the gentleman's diary of abuses, and the Executive is censured, because this aged man, with his family, was not thrown out to perish in the streets.

The case of Anthony Morris is another. He is a clerk in the Register's office. Mr. Morris is an old man, is one of those few veterans of the revolution and old Congress now alive, who by their employment and memory connect the present with the past Government. He is a literary man, the only one, says Mr. Michael Nourse, in the office. What of that? In consideration of his advanced age, infirm health, and that of his daughter, he might be absent from the service three months in the year—one month more than the ordinary allowance to all the clerks.

This case, sir, is, by the magnanimity of the gentleman, marked down among the instances of gross Executive abuse. What can the gentleman reply to these exploits of his magnanimity?

I leave it to the nation to compare Rufus King with John Randolph; and the mission of one to England with that of the other to Russia. Let them also compare the recess of Mr. Brown, minister to France, after years of service, and after sending home his resignation; let them, I say, run the parallel between this recess of Mr. Brown for a few days to the South of France, or the Lake of Geneva, and the Hegira of John Randolph, after a ten days' visit from St. Petersburg to some place, no one can tell where, in England. The people will do justice in all these cases.

The gentleman from New York has thrown his ponderosity into the scale of panegyric, thereby to render the weight of eulogy on the Russian minister overwhelming—scrap iron increases the weight not the value of gold. He does admit some sort of talent in speaking, to the parliamentary rivals of himself in eloquence—to Lowndes, to Clay, and to Webster. Cicero took his family name from a bean on some part of his face; and doubtless many a coxcomb has believed himself to be an orator, because, like Cicero, he had a wart on his nose. Somebody has said that "Man, of all the animal creation alone, is endowed with vanity." Who ever saw the cock sparrow measuring his wing in flight with the falcon? I believe there are gentlemen in this House who could give us good rea-

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sons why the eloquence of the orator of Roanoke is so well recollected by the gentleman from New York. No worker on the Roanoke plantation has better reasons to remember the eloquence of the overseer. Much as that eccentric man loved his joke and his sarcasm, he loved his fame more; and he would have spared the lash on that occasion, could he have suspected it might bring him into the poor condition of enduring praise at the hands of the gentleman from New York. Such revenge for such a cause is said to be peculiar to that gentleman, and one species of one other race among us.

Has the gentleman so long been a mere adjective to the Secretary of State, that he thinks it slanderous to associate the name of that politician with any other accident? Children, in these scientific times, who have advanced somewhat into the mysteries of chemistry, do, after beating up soap and water together in a basin, amuse themselves with a clean pipe in blowing up bubbles, and sending them off from the bowl inflated and glittering, to sail away a moment, and then burst and vanish into their original nothingness. For aught I know, the Secretary may be amusing himself by the same innocent experiment. Who would interrupt the sentimental harmony of political friendship! For all which he is distinguished, the character of the Secretary is fixed; it cannot be elevated by any labors of the protegee—it cannot be lowered by the efforts of others. God forbid that I should throw astray in the way of any man's advancement. Their friends are daily carrying and lying at the gate of the treasury those who have every thing to recommend them except the piety and good works of the beggar in the parable; and who, all alike, desire to be fed from the crumbs which fall from the tables of these feasting within. "Hope deferred," we find, does "not make every heart sick." Gentlemen, doubtless, have assurances that each political Lazarus shall be served in his turn. The next basket of broken meat brought out may be sent to New York, and amply satisfy the appetite, sharpened by a two years' want of it.

The gentleman accuses me of a departure from the question, to bring into the debate our late treaty with the Sublime Porte. Sir, every thing rendering our Russian relations important, comes into any question concerning them. Do not our new relations with the great European rival of Russia demonstrate more strongly our need of an efficient mission at the court of St. Petersburg? The Secretary has told us in the message, that the Black Sea has been opened to us by our treaty with the Sublime Porte. The gentleman does know full well that the swords of our brave Russian friends not only hewed their way through the Balkan down to the plains of Adrianople, but that, by the treaty of that city, they, for all purposes of navigation, widened the Bosphorus to a breadth equal to the Hellespont, and thereby united the Euxine with the Egean, Levant, whole Mediterranean, the Atlantic, and all other seas and oceans. What may our Russian imperial friend say to us for receiving from the Turk as a boon, to say nothing of our promise in return, what his valor, blood, and treasure had conquered for us and all nations? Omitting, therefore, the secret article, does not the opening the Euxine, either by the Russian power, or by the Turkish treaty, mightily enhance the importance of this question, and call imperatively on the Executive for an efficient mission at the court of St. Petersburg? If the gentleman cannot perceive this, he is less a statesman than he would seem to be; and even much less such, if that were possible, than others have esteemed him.

But I drew my facts from unprincipled partisans, and newspaper rumor! I said so before; I drew part of the truth from the Secretary—the treaty: the other part, the secret article, from the newspaper.

Sir, it has been the labor of the Secretary's life to establish newspapers, entitled to no credit; and to discredit all others. He has founded a school, and is at the head

of it. In that school the great axiom is, "every thing is fair in politics;" and, to him, are not politics every thing? Let him go on to improve the condition of the press. Let him extinguish the light of truth wherever he can extend the finger of power. Let him do one thing more—aided by his minions, no matter where—let him persuade the people that the honest, the independent papers of this country, are vehicles of falsehood, and mere rumor; let them be, as they have been on this floor, branded as false, foul, and dirty; and let the member who quotes from their pages the history and impress of the times, be reproached as a blockhead, a blackguard, a slanderer; and what more could the Secretary of State desire, which he would not be sure to obtain? Sir, such a consummation would have saved to Charles the throne of France; and to the patriots of that country, their revolution.

I did quote for the secret article, in the Turkish treaty, from the newspaper: dares the gentleman question the truth of the quotation? Had I drawn a bow with a more advised aim, could the pigeon on the pole have fluttered more manifestly? The gentleman has, notwithstanding all these assertions, accused me of drawing my facts from a perjured Senator. Has it come to this? Was it found necessary not to commit our first treaty with the great disciple of Mahomet to the christian Senators of the United States, until their lips were sealed by the solemnities of an oath? It is a new formula in the executive department of the Senate, and will appear, by the published journals of that body, to have had no place in their proceeding until the present session. When a treaty in 1795 was published by a Senator against an injunction of that body, who accused him of perjury? The gentleman whose mission is now under consideration, did, on this floor, pronounce a studied eulogium on Stephens Thompson Mason, the Senator who published that treaty. Would he eulogize perjury? Sir, the secret article was published before the treaty was announced to the House, or sent to the Senate. The correspondence on the West India question was published in the same manner. Has the Secretary of State adopted this method, and put out his feelers to take the national pulse?

I do not ask what warranted, but who authorized, or instructed, or encouraged the gentleman to connect perjury with that venerated word which designates the members of a national council, the most dignified and honorable on earth?

How could I shun insult, when such men are reviled? I do not ask by what statesman, or gentleman, but by what apology for a man? In what other assembly on earth has "the hoary head" been used as a term of reproach? Has the gentleman passed so far beyond the vigor, and bloom, and modesty, of juvenescence, that he has forgotten the amiable instinct of our nature, which warns our youth to pay in advance that consideration to age which it may come to desire for itself? Though grey hairs have been held in respect by barbarians in all countries, and by even the most profligate and unmannered in all ages, yet, knowing him, (*ab ovo ad plumas*;) I am not disappointed in the language or demeanor of the gentleman from New York. Men, better than I am, have been reviled in their age, by men no better than he is. Washington was called a "hoary headed incendiary," by a vagabond of almost unparalleled mendacity and impudence. The "bald head" is, I assure the gentleman, no joke, though he seems to be original in using it as such. This inconvenience, or, if you please, imperfection, has been suffered by some very great men, but quite rarely, if ever, has it been experienced by any very little ones. Caesar is said to have been more grateful to the Roman people for granting him the right to wear the laurel crown, than for any other of their gifts, because the wearing it enabled him to conceal the exterior baldness of his head. If it be true, as Shakspeare tells us it is, that what nature has scantied men in

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wit, she has made up to them in hair, then the gentleman, I believe, should he win a laurel crown, would never, like Cæsar, have occasion to wear it, for any lack of that commodity. Who reviled the prophet, returning from the blazing translation of his master, with a countenance bright with the glories of opening heaven, and wrapt in the mantle of Elijah—who, sir, reviled the prophet for his “bald head?” Profligate young men, boys, children, as they are called; the scum and sweepings of the city, and, as we find by the historian, fit only for food for those animals which are fed on offal.

The gentleman is equally out in his ornithology, as in every thing else. The bird of Jove, not the vulture, is that soaring wonder, by men called the “bald eagle;” and, sir, never was that “soaring eagle, in his pride of place, hawked at, and brought down by the mousing owl.”

Sir, my remarks have been excursive, but I have travelled over no ground where some one of the gentlemen had not placed himself before me. If these gentlemen are out of the field, and I do not see them in force on any point of the argument, I will return to the questions made by us under our motion.

[At this period of his speech, Mr. BURGESS gave way to a motion for adjournment. On the Monday following, when the subject was resumed by the House, Mr. B. continued as follows:]

I ask the House to inquire, whether the salary to be provided, under our law, by this appropriation, can be due for an illegal and void mission? Ambassadors and other public ministers, though they may be appointed by any sovereign community, yet, being officers sustained and sent abroad by the laws of nations only, must be appointed and commissioned in conformity to those laws. The power of every nation is confined to its own territory; and, therefore, no officer of one nation can, as such, pass into the territory of any other, and there exercise any official functions whatever. Nations being moral persons, like individuals, have established certain laws for their own mutual intercourse. Under these laws the offices of heralds, legates, ambassadors, envoys, and other public ministers, have been created, and by them are the powers, rights, and immunities of all such officers governed. Our Executive can, therefore, create public ministers; but it must be seen that the foundation of their power to do so is laid down in the laws of nations. (Vat. book iv, ch. 5, § 56-7.)

“Every sovereign State, then, has a right to send and receive public ministers; they are the necessary instruments in affairs which sovereigns have among themselves, and to that correspondence which they have a right of carrying on. In the first chapter of this work may be seen what we mean by sovereign and independent States which constitute the great society of nations. These are the powers which belong to the right of embassy, and an unequal alliance or treaty of protection does not take away this right.”

Our law providing salaries for public ministers and consuls, and the constitution, by vesting the power of appointing them in the President and Senate, has neither created nor recognised any new power in the United States; not incident to them in common with all other nations; nor can any authority be drawn from this law, or the constitution itself, to appoint public ministers or consuls, other than such only as are known, acknowledged, and established by the great code of laws governing the intercourse of all civilized nations. Our Executive can, therefore, neither give powers to consuls or public ministers, nor send them abroad for purposes unknown to those laws.

Should the President and Senate appoint, and send into foreign countries, consuls, as France once did, with admiralty powers on questions of capture under the laws of war, would these be consuls under our constitution, unless they were such under the laws and usages of nations?

In like manner, if the Executive create missions, and appoint ministers to go into the territories of other nations, there to hear and decide controversies arising among American citizens, or to try and punish crimes mutually committed by such citizens against each other, could we be called upon, under our law or constitution, for appropriations to pay their outfits and salaries? Why not? Because the laws of nations have established no such consulate, no such mission, no such minister; and no nation can create a new embassy, or one unknown to the laws of nations.

A sovereignty may send abroad ambassadors, envoys, or resident ministers. It may also send envoys extraordinary and ministers plenipotentiary; a grade of diplomatic functionaries comprehending the especial officers of the envoy and the resident minister. These ministers, however, must be sent for some specific purpose, which must be in its nature public and national, and they must be addressed, and carry credentials of their appointment and character, to some designated sovereign. Sovereigns can accredit and receive resident ministers; but will it be pretended that they can accredit and receive non-resident ministers, such as, when so accredited and received by the Government of one nation, are thereby authorized and empowered to reside as ministers to that nation in the territories of any other! The act of accrediting and receiving public ministers is one of the highest acts of sovereignty. Under the confederation, it was done in Congress assembled. By the constitution, this august attribute of sovereignty is conferred on the President. In all the Governments of the old world, this act of sovereignty is, I believe, in like manner, performed by the Chief Magistrate of the nation. Although the whole sovereignty of a nation be, in accrediting and receiving a public minister, put in requisition by the potentate who performs this great State ceremonial, yet the legal effects of this act of sovereignty must be limited by whatsoever limits all the acts of each and every sovereignty. The legislative, judicial, and executive powers of every nation are limited by the territory of such nation; and, therefore, every exercise of any of those powers must, in their operations, be confined to the territory of the nation exercising them. The august act of sovereignty, therefore, by which a public minister is accredited and received by the Executive potentate of any nation, like the laws and judicial decisions of that nation, can have no efficiency, no legal existence, otherwise than as a mere matter of fact, beyond the territorial limits of that nation. Whenever, therefore, any sovereignty does accredit and receive a resident minister, such minister receives thereby no powers which are not, like the powers of that sovereignty itself, limited, and confined to the national territory. For the Executive power of one nation to accredit and receive a minister as a resident minister at its own court, and in its own territory, and, at the same time, to authorize and empower such minister, thereby, to reside at any other court, or in any other country, would be nothing short of direct usurpation in the Executive doing it: for, to accredit and receive a public minister, is one of the highest exercises of sovereignty, and, therefore, whenever the Executive of one nation does accredit and receive a minister, to reside in the territory of another nation, such Executive does exercise one of the highest acts of sovereignty over that nation. This would be usurpation.

Before gentlemen contend that this power of accrediting and receiving non-resident ministers belongs to sovereignties, they must show some warrant for it from the laws of nations. Do they contend that the right of embassy is derived from the law of nature, and not from the convention and agreement of nations; and that, therefore, one sovereign might, by the laws of nature, receive ambassadors from another, and, by endorsing their credentials, authorize them to pass into the territories of any other nations? It is admitted that heralds, envoys, and



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ambassadors were sent, and received, and respected, between armies and armies, nations and nations, by virtue of the law of nature, I presume; for this was certainly done both in Asia and Europe, before any such code as the law of nations existed in the world. These ministers derived their powers, and protection, from the necessity of the case, and were compelled to go right forward on the errand for which they were sent; and, when that was finished, to return in the most direct route. These principles, as the historian of Cortes tells us, were found by the Spaniards to exist in Mexico. For the envoys, sent by him to Montezuma, were protected while they kept directly on their journey, and in the highway; but, if they left that path, they forfeited all protection. Even these necessary messengers of war or peace, of congratulation or alliance, between sovereignties, could receive no powers, either from those who sent them, or from those to whom they were sent, to sojourn for any purpose in any other country; nor were they permitted to tarry, either in the place where their business was to be done, after that was finished, or to loiter on their way home. This power of non-residence, therefore, was wholly unknown to the intercourse of nations, derived from the laws of nature.

Resident ministers do not derive their powers from the laws of nature. For surely that could never require any community to permit the citizens of any other community to come and reside in their territory, unless they become subjected to their laws and jurisdiction. Accordingly, we find such ministers were unknown in Europe until the sixteenth century. Ward, in that part of his history and foundation of the law of nations which relates to the sixteenth and seventeenth centuries, says:

"Within this period, among the States of Europe, began that remarkable and characteristic custom, of entertaining ordinary or resident embassies at one another's courts: an institution peculiar to themselves, and particularly evincive of those many distinctions which there are between their law of nations, and that of other sets of people."

"Ambassadors in ordinary have been attributed by some to Ferdinand the Catholic, whose policy led him to entertain them at various courts, as a kind of honorable spies; by others, with no small probability, to an imitation of the Pope, who had long been in the habit of sending nuncios to reside at various courts in the service of religion. But, whatever was their origin, the jurists seem to agree that they are not of natural right; and, however universal they may since have grown, doubts, about the period before us, were apparently entertained of their utility. Henry IV of France, while King of Navarre, entertained none at other courts; and Henry VII, 'that wise and politique King,' says Lord Coke, 'would not in all his time suffer Leiger, [residence of] ambassadors of any foreign king, or prince, within his realm, nor he with them; but upon occasion used ambassadors.' So late as 1660, a member of the Polish Diet asserted that the ambassador of France had no cause of residence there, and that, as he did not return home, according to the custom of ambassadors, he ought to be considered as a spy. Two years afterwards, the deputies proposed very warmly to send home all ambassadors whatsoever, and to make a law regulating the time of their stay; and even the Dutch, who, one would imagine, had greater reason than the Polish nobles for encouraging an intercourse with foreigners, debated, in 1651, how far this sort of embassy was of any advantage to them. The greater part of nations, however, have now admitted their necessity; and though, at the commencement of the period before us, men had affixed no precise ideas to what was considered as a novelty, and even now the admission of these embassies cannot be demanded as a matter of law, yet the custom is so general, and they are considered as so much of course, that the friendship of States can hardly be maintained without

them. Not to send them, therefore, has been sometimes regarded as an affront."

The right to send, and the power to accredit and receive resident ministers at any court, being matter of convention and agreement among nations, it will be found that all the causes which have conspired to produce that agreement, do unite in excluding the very idea of accrediting and receiving non-resident ministers. Nay, sir, so unwilling have nations been to enter into any agreement that one sovereignty shall have power to accredit and receive ministers to reside in the territory of any other, that they have not yet agreed to protect ambassadors, while passing through their territories, in going to, or returning from, the place of their mission. Ward, and the authorities quoted by him, notwithstanding Vattel is of a different opinion, do establish this doctrine.

"I cannot quit this interesting and remarkable subject, without observing that the privileges in question have been carried by some to an extent even greater than that which we have been examining. In the treatise of Vattel, we find the following positions: that, although the sovereign to whom an ambassador is addressed, is particularly called upon to protect him in his privileges, yet that the same duty extends to other sovereigns to whom he is not addressed, but through whose country he is obliged to pass for the purposes of his mission. To insult him, says Vattel, is to affront his master and his whole nation; to arrest him, or to offer violence to his person, is to wound the rights of embassies which belong to every sovereign.

"This doctrine arises out of some considerations upon the case of Rincon and Fregoze, ambassadors of Francis I of France, the one to the Porte, the other to Venice. These ministers, passing down the Po in their passage, and being suspected of bearing despatches prejudicial to the interests of the Emperor Charles V, were set upon and murdered, apparently by the orders of the Governor of Milan. But the Emperor, although at that time at peace with Francis, appears not to have been inclined to punish the authors of the murder. Upon this transaction Vattel observes, that it was an atrocious attempt against the law of nations; that Francis had not only a very just cause for war against the Emperor, but also to demand the assistance of all other nations in its support. For it was an affair, not of two individuals, who each of them supposed they had right on their side, but of all States whatsoever, who were interested in maintaining the rights of embassy.

"It, perhaps, does not fall exactly within the scope of this treatise, to examine whether this opinion is really law, as it is received at present. But we may venture to observe that, in this position, Vattel stands sole; at least, all the authors on the law of nations, who have preceded him, after discussing the point at length, have come to a conclusion directly the reverse of his; and that which they have concluded is supported by a great variety of cases, both of an ancient and a recent date. Thus Albericus Gentilis, upon this very case of Rincon and Fregoze, observes merely, '*Probrum id Carolo fuisse.*' *Sed uliu questio est,* adds Bynkershoek, *de jure legationis, alia de jure honestatis.* Grotius, who followed Gentilis, after having given his opinions at length upon the inviolability of ambassadors, says expressly that it is only to be understood to be binding on those sovereigns to whom they are sent, '*Non pertinet ergo hac lex ad eos per quorum finis, non accepta venia, transeunt legati.*' It is true, the *non accepta venia* may be made by some to amount to an inviolability, provided they have passports. But it may be fairly questioned whether the possession of a passport itself can confer any thing more than the common protection to which common aliens have a right. Bynkershoek, at least, without taking notice of passports at all, understands Grotius to mean, generally, that the privilege in question shall not have place in countries to which ambassadors are not addressed. Of this opinion, also, were Zouch, Wicquefort,

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who has been deemed the very champion of the rights of ambassadors, and who decides that the case of Rincon and Fregoze, though an atrocious murder, was not a violation of the law of nations as to embassies; Huber, and, lastly, Bynkershoek, who had particular occasion to examine the point but a short time before Vattel. The subject came before the latter in considering the meaning of the passage which formed part of a declaration of the States General in favor of the inviolability of ambassadors; and the difficulty was to know whether the word '*passerende*' was applicable to ambassadors to other Powers, passing through Holland, or confined simply to those addressed to the States, coming, residing, and passing away, or retiring. To solve this difficulty, he inquired into the opinions of the jurists concerning the point in discussion, and determined that it applied solely to ambassadors who were addressed to the States."

"Selim II, in the sixteenth century, being at peace with Venice, but meditating war, sent a minister to the King of France to know his sentiments of it. He endeavored to pass through Venice, but was arrested, and the French ambassador there, and the King himself, claimed his liberty as addressed to them. But they were forced to yield to the arguments of the republic, 'that a sovereign Power need not recognise a public minister as such, unless it is to him that his credentials are addressed.'"

"In 1572, Elizabeth, of England, having reason to be jealous of the machinations of the French in Scotland, arrested all Frenchmen passing through the Kingdom to that country without passport. Among these was Du Croc, the French ambassador to Scotland, and his court complained loudly of this as a violation of the law of nations. But Walsingham, the Secretary, pleaded, that it was Du Croc's own fault for not taking a passport, he might justly be detained, and with this plea the French were content, notwithstanding his quality of ambassador."

Sir, what is the mission invented in this case by Mr. Secretary Van Buren; and what the diplomatic character of the minister now under consideration? This gentleman was, by order of the Executive, carried out from Norfolk to Russia in a national ship, with every circumstance of high respect, and at a cost of not less than forty thousand dollars for his passage. He arrived at St. Petersburg; was presented to his Imperial Majesty the Emperor of Russia; exhibited his credentials; was accredited as envoy extraordinary and minister plenipotentiary of the United States at that court; retired and took his departure from the Russian territories; all in the short space of ten days. It is contended by gentlemen who support this appropriation, that he is our minister. If so, he must be our minister non-resident at the court of St. Petersburg: for it is too much to say that stopping ten days at that city would make him, in legal acceptance, resident there, but that six months' residence in England will not render him legally a non-resident at St. Petersburg. If, then, he can be our minister at all, he must be our non-resident minister. He has been sent to St. Petersburg to be accredited there by his Imperial Majesty; and, by force of being thus accredited, we are gravely told by the Secretary of State that he has acquired the rights and powers of a minister of the United States, wherever he may choose to reside. Sir, will nations admit this kind of non-resident, this migratory mission, this diplomatic gossiping? This doctrine of "non-locality," so essential, in the Secretary's constitutional creed, to the existence of a national road, he will find does not belong to the character of a resident public minister, and really has no place among nations, out of the cabinet, so adroitly conducted by himself.

If gentlemen still contend that Mr. Randolph is our envoy extraordinary and minister plenipotentiary non-resident at the court of St. Petersburg, they must contend that, wheresoever he does reside, he is still vested with the high diplomatic qualities and attributes which, by the

laws of nations, belong to such a public minister. What are these? They are comprehended in two very expressive words—personal inviolability. Not only are his person and effects exempted from all legal diligence, but whoever shall treat him with insult or disrespect is liable to be punished. A public minister cannot be sued for a contract or a trespass; he cannot be prosecuted for a felony. If he commit homicide, with every circumstance of malice, or conspire with traitors to overthrow the Government to which he is sent, he can neither be punished nor prosecuted, nor even questioned concerning these crimes. Vattel asserts:

"The necessity and right of embassies being established, (see chap. v. of this book,) the perfect security, the inviolability of ambassadors and other ministers, is a certain consequence of it: for, if their person be not defended from violence of every kind, the right of embassies becomes precarious, and success very uncertain. A right to the end is a right to the necessary means. Embassies, then, being of such great importance in the universal society of nations, and so necessary to their common well-being, the person of ministers charged with this embassy is to be sacred and inviolable among all nations, (see book II, § 218.) Whoever offers any violence to an ambassador, or any other public minister, not only injures the sovereign whom this minister represents, but he also hurts the common safety and wellbeing of nations; he becomes guilty of an atrocious crime towards the whole world."

This doctrine is further confirmed:

"In fine, if an ambassador could be indicted for common trespasses, be criminally prosecuted, taken into custody, punished; if he might be sued in civil cases, the consequence will often be that he will want the power, leisure, or freedom of mind, which his master's affairs require. How will the dignity of the representation be supported in such a subjection? From all these reasons, it is impossible to conceive that the prince, in sending an ambassador, or any other minister, intends to submit him to the authority of a foreign Power. This is a fresh reason, which fixes the independency of a public minister. If it cannot be reasonably presumed that his master means to submit him to the authority of a sovereign to whom he is sent, this sovereign, in receiving the minister, consents to admit him on the footing of independency. And thus there subsists between the two princes a passive convention, giving a new force to the natural obligation."

In 1567, Leslie, Bishop of Ross, came to the court of Elizabeth, as ambassador of Mary, Queen of Scots, who was then detained a prisoner by her royal cousin. This man, in taking care of the concerns of Mary, conspired with certain English noblemen to depose Elizabeth, and place Mary on the throne of England. The plot was discovered; the Duke of Norfolk and others were executed for treason; but though Elizabeth dared afterwards to steep her hands in the blood of her royal captive, and thereby to violate all other laws, human and divine, she dared not violate the laws of nations, by punishing the ambassador of the unfortunate Queen of Scotland. In 1584, Mendoza, the Spanish ambassador in England, conspired to dethrone the Queen, by introducing foreign troops into the country. This conspiracy being discovered, the court of Elizabeth took the opinions, as Ward tells us, of the celebrated Albericus Gentilis, then in England, and of Hottoman, in France, another great civilian, concerning the manner of proceeding against Mendoza. "They both asserted that an ambassador, though a conspirator, could not be put to death, but must be remanded to his principal for punishment. In consequence of this, Mendoza was simply ordered to depart the realm, and a commission sent to Spain to prefer a complaint against him."

Three years afterwards, L'Aubaspine, the French ambassador, in his devotion to Mary, conspired not only to dethrone, but to assassinate Elizabeth. He actually hired

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a ruffian from Newgate to perform this deed of atrocity. Some disagreement concerning the means to be used induced delay in the execution, and led to a discovery. When the ambassador was called upon for examination, he replied, "I will hear no accusation to the prejudice of the privileges of ambassadors;" and though Lord Burleigh reproached him for his turpitude, yet the English court never thought of trying him for treason.—Ward, 314–15.

Sir, such are the high and distinguishing attributes and characteristics of "ambassadors and other public ministers," under the laws of nations. These immunities and privileges belong to Mr. Randolph, if he be the envoy extraordinary and minister plenipotentiary of the United States resident at the court of his Imperial Majesty the Emperor of Russia, or in any part of his territory. We know, however, that he is non-resident there; and are we prepared to say that, if he acquired these immunities by his visit to that court, and his being accredited there, he now carries them with him wherever he may make it his pleasure to sojourn? If he be a public minister, he has these immunities; if he be without them, then is he no public minister. What lawyer in this House, or nation, or indeed in the civilized world, would pledge his character upon the allegation that John Randolph might, like the Bishop of Ross, Mendoza, and L'Aubaspine, join a conspiracy to dethrone and assassinate the sovereign of England; and, like them, when questioned for the treason, allege his immunities as public minister, and refuse to "hear any accusation to the prejudice of the privileges of ambassadors?" Sir, the absurdity is too enormous to be entertained by any man of sane mind and ordinary understanding. If, then, he have not these immunities, he is not a public minister of the United States; and it is a mockery of the nation to call on their Representatives to appropriate money for the payment of his salary.

We are not to suppose that a public minister, because he is exempted from legal process in the country to which he is sent, is therefore not amenable to any laws whatever for any part of his conduct. He is not within the legal jurisdiction of the country where he is accredited, although at the capital and court of the sovereign, and protected by his whole civil and military power: but he carries with him the jurisdiction of his own country; and it is because he is, by force of the laws of nations, within the jurisdiction of his own country, that he cannot be within that of the country where he is accredited and received as a public minister. Those who travel the ocean in your fleets of ships and vessels, either the mercantile or naval, though their "home seems to be on the deep," yet, by force of law, are they within the body of the country and district of our country from which they departed on the voyage, or to which they may return when that is finished. Their contracts, or trespasses, or crimes, though done on the deep sea, in the most distant ocean, yet are within the legal jurisdiction of their country. In like manner, your public ministers, to whatever court you send them, and wherever they are accredited, carry with them, and are there surrounded by, the jurisdiction of the United States. The highest officer of justice in the country where they are received, when he steps over the threshold of their house, becomes, as in the District of Columbia, an ordinary citizen; and the imperial State warrant in his pocket is whitened into blank paper, and can no more be executed by him there on a public minister, than, if he stood on this floor, with the same warrant in his hand, he could, by virtue of it, arrest me or you, Mr. Speaker.

I have not spoken without authorities on this subject. Ward tells us, page 297:

"An ambassador neither knows nor submits to the laws of the country to which he is sent; he goes not on his own account, on private business, or private pleasure, but as the representative of another; as the presentation of the dignity, privileges, power, and rights which others would

enjoy had they continued within their own precincts. And thus, by consent, and a sense of mutual advantage, he is allowed to represent and personify, if I may so call it, all these high privileges, in the very bosom of another community, for the sake of transacting better the whole business of the world."

Vattel says, page 548:

"But it is not on account of the sacredness of their persons that ambassadors cannot be sued; it is because they do not depend on the jurisdiction of the country whither they are sent: and the solid reasons for this independency may be seen above. (92.) Let us here add that it is entirely proper, and even necessary, that an ambassador should not be liable to any juridical prosecution, even for a civil cause, that he may not be disturbed in the exercise of his functions."

He further tells us, page 554:

"The independency of the ambassador would be very imperfect, and his security weakly founded, did not the house in which he lives enjoy an entire exemption, so as to be inaccessible to the ordinary officers of justice. The ambassador might be disturbed under a thousand pretences; his secrets might be discovered, by searching his papers; and his person exposed to insults. Thus, all the reasons which establish his independence and inviolability concur likewise to secure the freedom of his house."

This independence and exemption from foreign jurisdiction belongs to the public functionary, not to the man; is given for the public, and not for his own benefit; and, therefore, cannot be laid aside, even so far as to become a party in a suit, while he continues to be a minister, without the consent of his master. To this effect, Vattel says, page 549:

"But if the ambassador will partly recede from his independency, and subject himself in civil affairs to the jurisdiction of the country, he unquestionably may, provided it be done with his master's consent; but, without such a consent, the ambassador has no right to waive privileges in which the dignity and service of his sovereign are concerned—which are founded on the master's rights, and made for his advantage, and not for that of the minister."

Has Mr. Randolph carried the jurisdiction of the United States with him into England? and does that jurisdiction now surround him, as it does each one of us, and exclude from his person, his effects, and his house, all English jurisdiction? The case of the Russian ambassador in England is in point: It happened in the time of Queen Anne, 1707. The Russian ambassador at her court was arrested in the street for debt, taken out of his coach, and carried by the tipstaff to a common spunging-house, and detained there until he was bailed by the Earl of Feversham. By the laws of England, these proceedings against the ambassador were void, but no adequate punishment had been by law provided for such offenders. Ward tells us on this subject, pages 299, 300, 301, that on this occasion the statute 7 Anne, c. 12, was enacted; that

"The preamble, however, having merely observed that the Muscovite ambassador had been taken out of his coach by violence, in contempt of the protection granted by Her Majesty, without taking notice of the breach of the law of nations, 'which is superior and antecedent to all municipal laws,' the foreign ministers in London met again together, and procured the addition of these words: 'Contrary to the law of nations, and in prejudice of the rights and privileges which ambassadors, and other public ministers authorized and received as such, have at all times been thereby possessed of, and which ought to be kept sacred and inviolable.' With this act of Parliament, elegantly engrossed, and an apology for not being able to punish the persons of those who had affronted his minister, the Czar, who had first insisted upon their deaths, was at length induced to be content; and thus ended this delicate affair."

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Should Mr. Randolph, like the Russian minister at the court of Queen Anne, be arrested for debt, and carried to a spunging-house for lack of bail, could he claim protection as an envoy extraordinary and minister plenipotentiary of the United States? Sir, that statute was provided for those "ministers who were authorized and received as such," not in other countries, but in England. This gentleman can take no protection under it. He has abandoned the jurisdiction of the United States for that of England; the high immunities and labors of a public minister for the comforts and retirement of a private gentleman, in some farm-house or inconsiderable inn in the county of Suffolk. The American arms and ensign he has either never placed over the door, or he has ordered them to be pulled down and thrown into the garret. Who can point out the place to the American citizen where the American envoy extraordinary and minister plenipotentiary non-resident at Russia may now be found? Will gentlemen further contend that, by some new fiction of diplomatic law, he is still our minister, and that we are bound, in behalf of the nation, to make this appropriation for his salary?

There is another view of this part of the question, which truth and justice do not permit me to pass by in silence. Let the admission be made, for the purpose of the argument, that such a minister may, by the laws of nations, be accredited and received by a foreign Power. If so, he must have been nominated and appointed as a minister of that character. Any sovereign State may send abroad, and have received, several different kinds of public ministers. The first in rank is the ambassador. He is not only a mandatory, as all others are, but he is also the representative of the sovereignty which sends him; and in the presence of the sovereign receiving, he stands, as one king does in the presence of another, without uncovering his head. The envoy is another grade of minister, and is charged with the doing of some particular act, which, when he has finished, he returns home. Resident ministers are in rank below envoys, and are charged with such relations of their Governments where they reside, as require the constant attention of some mandatory or agent for their care and supervision. The envoy extraordinary and minister plenipotentiary is a high mandatory, empowered to do whatever may be done by any other minister, except the representation of the sovereignty which has sent him abroad. He is inferior in rank to none but the ambassador. Commissioners are sent out on special agencies, and are received and accredited as ministers of an inferior grade. The *chargé d'affaires* is accredited as such, and takes the duties, though not the rank, of resident minister.

If, sir, in addition to all these, foreign courts could credit and receive non-resident ministers, or such as might reside either at such courts, or wherever else they might choose, and continue to be ministers wherever they might go or reside, then is it not manifest that they must have been designated as ministers of this character, both in their appointment and in their commission? The nomination made by the President to the Senate, is the foundation of the mission, and it must fully set forth the name of the man to be sent, the place to which he is to be sent, the purpose for which he is sent, and the ministerial character of him who is to be sent. Without all these, how can the Senate advise and consent to his appointment? Accordingly we find that the President made this nomination with all these distinguishing characteristics.

"Tuesday, May 25, 1830.—The following message was received from the President of the United States, by Mr. Donelson, his Secretary:

"To the Senate of the United States: Gentlemen: I nominate John Randolph, of Roanoke, Virginia, to be envoy extraordinary and minister plenipotentiary of the United States at the court of his Imperial Majesty the

Emperor of Russia, in the place of Henry Middleton, of South Carolina, recalled."

Was this man nominated to be minister at the court of his Imperial Majesty the Emperor of Russia, and elsewhere? No, sir, it was at, in place of Mr. Middleton; and at that place only. If, therefore, a non-resident minister could, by the laws of nations, be sent abroad, or could have been advised and consented to by the Senate, Mr. Randolph could not have been so sent, for he was not so nominated. Did the Senate advise or consent to this gentleman's appointment to any other ministerial office than that to which he was nominated? Let the record answer:

"The Senate proceeded to consider the message nominating John Randolph to office; and,

"Resolved, That they do advise and consent to the appointment of John Randolph, agreeably to his nomination."

If the President shall, by and with the advice and consent of the Senate, appoint public ministers, then the appointment of this man could not differ from the nomination made by the President, and the advice and consent thereupon had and given by the Senate. If, then, he might have been accredited and received at the court of his Imperial Majesty the Emperor of Russia, as a non-resident minister, he could not have been so sent, for he was not so appointed.

After this gentleman had been nominated, confirmed, and appointed envoy extraordinary and minister plenipotentiary at the court of his Imperial Majesty the Emperor of Russia, could his commission differ from his appointment? Could the Secretary of State, from this record, make out and deliver to him a commission as ambassador, and thus send this peculiar gentleman to the most splendid court in Europe, to represent the entire sovereignty of these United States; an office of honor and high dignity, which has never hitherto been, by this Government, conferred on any of those talented and highly accomplished statesmen, who, as public ministers, have gone abroad from this country? If, by the laws of nations, a non-resident minister could be received by a foreign Power, could this gentleman, under this appointment, receive the commission, and enjoy the immunities of such a minister? Appointed minister at the Russian court, could he, honestly, and according to the record, have been commissioned at that court, and elsewhere? I beg leave to read the formula in like cases, (1 vol. Lym.) addressed by the Secretary of State to the appointed minister. "Sir, with this letter, (among other things,) you will receive, 1st, a commission as envoy extraordinary and minister plenipotentiary. 2. A letter of credence to the King. 3. A passport for yourself and family." Has the Secretary given him such a commission? Beyond question, he has given it. This is not all. He tells us in the message, under the name of the President, that he has also given him a commission at the court of his Imperial Majesty, and elsewhere. If this be true, and Mr. Randolph is now traveling or sojourning under it, he has abandoned the appointment made by the President, under advisement of the Senate, and has ceased to be minister of the United States at that court; and, if he be a minister at all, he is a minister elsewhere; and, as such, is literally the envoy extraordinary and minister plenipotentiary of the Secretary, not of the President and Senate, or of the nation.

The same difficulties must have attended this mission at the Russian court. The credentials given to Mr. Randolph must show his ministerial character; and in that character alone could he have been received by the Emperor. So we are told by Vattel, page 523—

"Among the several characters established by custom, it is in the sovereign's choice with which he will invest his minister; and the character of the minister is made known in the credentials which he delivers to the sovereign to whom he is sent. Letters of credence are the instruments which authorize and establish the minister

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'in his character with the prince to whom they are addressed. If this prince receives the minister, he can receive him only in the quality attributed to him in his credentials. They are, as it were, his general letter of attorney, his mandate patent, *mandatum manifestum*."

Had this gentleman two sets of credentials, two commissions, and did he exhibit them both to the Emperor? Did he, in fact, tell his Majesty, "Your summer is too hot—your winter will be too cold. The fur which has warmed a bear, may warm a Russian monarch, but it can never warm me. My constitution is worn out in the public service. I shall be sick—I am sick. I must reside elsewhere, any where, in England, in France, in a more genial climate than that of your Majesty's capital." It is too much to be supposed, even of Mr. Randolph. He presented his at credentials and commission. His elsewhere credentials and commission were retained for use when he should arrive, I know not where, but certainly elsewhere.

Sir, our law has been evaded; the constitution has been evaded; the laws of nations have been evaded; the President, the Senate, and our imperial friend, have been deceived, and the minister himself, suffering himself to be made a party to this imposition, has fallen into the devices of the Secretary; has been by him got out of the country on a mission, illegal, void, and nugatory; and is now, the deplorable dupe of State artifice, cruising about Europe, like some contraband trader, under a double commission, and with two sets of papers.

Will it be contended by the supporters of this appropriation, that this gentleman will, after months of recess from the public service at the Russian court, return thither, and by years of efficient labor efface all memory of this interval of idleness and neglect? What cause, sir, have we to believe that he will ever return to St. Petersburg? Observe what the Secretary has told us in the message: "If, as it is to be hoped, the improvement of his health should be such as to justify him in doing so, he will repair to St. Petersburg, and resume the discharge of his official duties." This does not affirm that he will return; it affirms that "it is to be hoped he may be well enough to do so." According to the message, a want of health took him away from that court. Different reasons were given for those facts by the official papers. By the Richmond Official, the summer heat compelled his departure; by the Official in this city, the approaching cold of the then coming winter drove him to seek a more genial climate. In Russia, summer is said to burst from the frozen bosom of winter, like a sheet of flame from Mount Hecla, and to spread its warming, blazing, burning influence at once over the whole region. At times, so intense is the temperature, that the pine forests take fire from the heat of the atmosphere. I have read a Russian traveller, who says vegetation is so rapid, that, on a soil thawed not more than one foot deep, the ground is ploughed, the wheat sown, grown, ripened, and harvested in six weeks. Winter comes on the country as summer came, extinguishing, at once, the heat of the air and earth, by throwing down and spreading out one vast sheet of snow, from Cronstadt to Kamtschatka. The genial and joyous airs of spring, the sober and gladsome sunshines and shades of autumn, known under the Italian skies of Virginia, have never visited, and never can visit, a Russian climate. Unless, therefore, this gentleman can visit Russia in summer, when he has been compelled to leave it, or in winter, when he dares not approach it, he cannot return again to St. Petersburg. What reason had the Secretary for the hopes expressed in the message, that the renovated health of Mr. Randolph might induce him to return? Permit me to quote from one of his speeches, delivered on this floor little more than two years ago.

"Sir, what can the country do for me? As for power, what charm can it have for one like me? If power had

'been my object, I must have been less sagacious than my worst enemies have represented me to be, if I had not obtained it.

'Was it office? What, sir, to drudge in your laboratories in the departments, or be at the tail of your corps diplomatique in Europe! (Exiled to Siberia.) Alas! sir, in my condition, a cup of cold-water would be more acceptable. What can the country give me that I do not possess in the confidence of such constituents as no man ever had before? I can retire to my old patrimonial trees, where I may see the sun rise and set in peace.

'I shall retire upon my resources—I will go back to the bosom of my constituents.

'And shall I give up them and this? And for what? For the heartless amusements and vapid pleasures and tarnished honors of this abode of splendid misery, of shabby splendor? for a clerkship in the War Office, or a foreign mission, to dance attendance abroad instead of at home—or even for a department itself? Sir, thirty years make sad changes in man.

'I feel that I hang to existence by a single hair—that the sword of Damocles is suspended over me."

Will this gentleman, think you, return to Russia, hanging to existence by a single hair? Will he travel from region to region of Europe, with this sword of Damocles dangling over his head by a tie, equally attenuated? Never, sir, never; and if he never do return, as he most certainly never will, when does his mission end, if it did not end when he left the Russian court? If this mission ever had a legal beginning, when, or by what acts may it be ended? Vattel has told us, page 559, that all missions end: first, when the minister is recalled; second, when he is dismissed; third, when he has finished the business on which he was sent; and fourth, in a word, whenever he is obliged to go away, on any account whatever, his functions cease. By the laws of nations, which we cannot control, his mission was at an end when "he went away" from the court and country to which he was appointed and sent; and neither the mandate of the Secretary, nor congressional enactment, can continue him a minister one moment after he has, by the laws of nations, ceased to be one. Can we then appropriate money for the salary of such a minister? Not unless we make ourselves parties to this imposition; and, in the name of the nation, guaranty this fraudulent diplomacy.

Gentlemen may place this salary on the ground of a *quantum meruit*, and tell us Mr. Randolph is entitled to receive it, and we are bound to make the appropriation, because he has performed services at Russia, for which he deserves to have this compensation. What services was it intended he should perform; what in fact did he perform; what, in so short a time, could he perform? We are told by the honorable chairman of the Committee on Foreign Relations, [Mr. AUCHINCLOSS] and no man ever doubts his candor and correctness, that Mr. Randolph did not perform what he was sent out to do. However meritorious that might be when done, he surely does not deserve any compensation for not doing it. How did this gentleman represent, when presented at that court, the form and body of our national character, by his appearance, his manners, conversation, and intercourse with the imperial family, the court, and foreign ministers then and there representing the various sovereignties of Europe and Asia? I could give the history of this ten days, this, which will, in our Russian diplomacy, be called the time of Randolph; I could give it from the most authentic testimonials; not from rumor, but from the voice of honorable, intelligent men, who, being there at the time, have since returned to this country, and from letters with which the Russian correspondence of our Atlantic cities has been crowded. All these speak but one language, express but one feeling—the irrepressible feeling of wounded and mortified patriotism. All these, instead of find-



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ing merit in this man's diplomatic achievements, look on them with unutterable anguish; and have no consolation under the gibes and jeerings of foreign nations, but the memory of the past, when the dignified character of our republic was represented in Europe by Franklin, Jay, Adams, Livingston, Jefferson, and Pinckney. Nothing, sir, but national pride has withheld this narrative from the ear of the world; for who would give a tongue to obloquy against his own country? I will, in silence, pass over the doings of this gentleman's ten days of diplomacy; nor would I have alluded to them, did not his friends draw on these very doings as a fund of merit, entitling him to this compensation. The doings of ten days! What, sir, could he do in that time? Why, in that time the discipline of the Russian tailor could scarcely have reduced the rigid outline of this man into the exterior of diplomacy. He performed services for his country in that brief period! Caesar, with the eagle wing of pursuit, and the lion strength of conquest, overrun Bythinia, and subdued the son of the great Mithridates in a few weeks. This conqueror might, in the confidence of friendship, venture, with poetic license, to write to his associate at Rome, "*veni, vidi, vici.*" Should our Russian envoy write the history of his ten days, he might, without poetry, place all, for which he can have any claim on his country, in as few, and almost the same words; *veni, vidi, abivi*, would fill up the whole *quantum meruit* of his mission.

If it be contended that this gentleman is entitled to a *pro rata* compensation for the time spent in going to Russia, and while there, as freight is apportioned and paid, when a cargo is, by casualty, transported a part only of the voyage, I am ready to agree that this alone is the ground on which any thing whatever can be claimed. This, however, will fail, if the mission be, in its inception, *contra jus gentium*; and therefore void. If there be any part of this mission sound and legal; if this gentleman has believed he was, in good faith, in the public service, in the name of justice let him be paid for all that time, although nothing was effected beneficial to the nation. On this ground I am ready to support, though I cannot move to make any modification of the motion under consideration.

Last of all, I come to inquire whether this salary can be due, because this mission, and the conduct of the minister under it, may be especially beneficial to the Secretary of State. Was this gentleman appointed with any view or expectation that he could render diplomatic services at the court of Russia? Surely not. For, in the first place, the performance of such services required his residence at the Russian court. This is evident from the nature of those services, as may be seen from reading the ordinary instructions to all resident ministers; Lyman's Diplomacy, vol. 1, pages 15, 16, 17:

"Among the most important general duties of a minister of the United States in foreign countries, is that of transmitting to his Government accurate information of the policy and views of the Government to which he is accredited, and of the character and vicissitudes of its important relations with other European Powers. To acquire this information, and particularly to discriminate between that which is authentic, and that which is spurious, requires steady and impartial observation, a free though cautious correspondence with the other ministers of the United States abroad, and friendly, social relations with the members of the diplomatic body at the same court.

"In your correspondence with this department, besides the current general and particular politics of the country where you are to reside, you will be mindful, so far as you may find it convenient, to collect and transmit information of every kind, relating to the Government, finances, commerce, arts, sciences, and condition of the nation, which is not already known, and may be made useful to

our country. Books of travels, containing statistical or other information of political importance, historical works, not before in circulation, authentic maps, published by authority of the State, or distinguished by extraordinary reputation, and publications of new and useful discoveries—will always be acceptable acquisitions to this department."

"Among the ordinary functions of an American minister in Europe, is that of giving passports to citizens of the United States, who apply for them. They sometimes receive applications for such passports from the subjects of other countries; but as these are not regularly valid, they should be granted only under special circumstances, as may sometimes occur in the case of foreigners coming to the United States."

Do not these labors require residence at the court of his Imperial Majesty? Look into the published diplomatic correspondence of our former ministers. What treasures of information! What monuments of ability, labor, and diligence!

This gentleman could not reside at the Russian capital. Neither his health, his constitution, his age, nor the climate, would permit such residence. As well might the Secretary have plucked up one of his patrimonial oaks, and transplanted it on the banks of the Neva, with any expectation that it might take root there, and live, and flourish in the summer heats and winter storms of Russia.

So utterly out of the question was all expectation of public service from the appointment of this gentleman, that although it must have been known such service could not be rendered without residence, yet he received full permission to leave the court and empire of Russia, and reside wherever he might choose to reside.

Mr. Randolph was, of all men, the last which a wise and judicious policy would have selected to represent the interests of our nation at the Russian court. He had publicly expressed opinions concerning that court and the imperial family, most derogatory and degrading. Suffer me to read these opinions, from one of his speeches, published under his own corrections and supervisal, in Gales and Seaton's Register of Debates, volume 2, part 1, page 392-3.

"Now, sir, the gentleman from North Carolina is so extremely unreasonable as to wish—he will bear with my reproof, I hope—as to wish to break the lincal succession of our monarchs, and to reduce us to something like the barbarism of Russia, where they have not yet perfected themselves in the A B C of legitimacy; a regular indefeasible succession of tyrants; although they claim the head of the table of the holy alliance—where there is hardly one instance of the lincal heir succeeding to the throne without regicide and parricide, (which the case implies,) from the time when Muscovy first became a European Power—from the time of Peter Alexiovitch, (or Alexiovitch, as I was taught in my youth to call him,) who was the slayer of his father, and who transmitted his power to Catharine, the Livonian peasant girl, first his strumpet, then his chamberlain's, then an Empress; whom I have heard more than once confounded with her namesake Catharine, Princess of Anhalt, the second of that name, who, by the murder of her husband, Peter 3d, usurped the throne. With some variation of the mode, not of the measure, it is the case in this our day of Constantine Caesar-ovitch—which means, I believe, Fitz-Cesar—as it was with his father, Paul Petrovitch, and with his father, Peter, the son of somebody—nobody knows who—who went before Paul, not by the same instrument; no, sir, in the case of Peter, the red-hot poker—the actual cauteric—supplied the place of the new Pahlen-tie of the twisted cravat—a *la Pichegru*—and it was only the day after the news arrived of the deliverance of the world from the autocracy of Alexander the Deliverer—as well as I remember the date—I know that it was on the 9th of Febru-

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ary—three days before the unavoidable departure of my colleague, that I endeavored, and, as I then thought not without some show of success, to impress the Senate with the important bearing of the recent event at Taganroek (recent as to us) upon the new, wild, dangerous, and, as I fear, fatal policy, now, for the first time, if not announced, attempted to be practised upon by this rash and feeble administration. Elizabeth and Burleigh were cautious and powerful. The Stuarts and the Buckinghams profligate, feeble, and rash. It was then that I forewarned the Senate that the red-hot poker of some Orloff the Balafré, or Orloff, the other favorite—(it was a regular household appointment of Catharine la Grande—somehow irregularly filled occasionally—a la Cossaque.) It was on that day that I suggested to the Senate that the poker or the bowstring of a Zuboff, or the something else of somebody else—some other Russian in off—the instrument and the mute nearest at hand in the Capraan styes of tyranny and lust—was ready to despatch this new successor of the Tsars—of the Constantines—of the Byzantine Casars.

"But, sir, I, the common libeller of great and good men, did injustice to both these legitimates; to St. Nicholas and to Casarovitch. I thought too ill of one of them, and too well of the other. I thought that Commodus would 'show fight.' But, sir, let us not despair of the Russian. In spite of Montesquieu's sneer, he 'can feel' for a brother, at least, even although he be not flayed alive; except now and then, under the autocracy of the knout. He has not, indeed, yet learned 'to make revolutions with rose-water'—that is the political philosopher's stone, which is yet in the womb of time, to be brought forth by some modern *Accoucher*-reformer. But he shows signs of capability that are quite encouraging. He cannot, indeed, redeem his paper, neither can the bank of Kentucky redeem its paper; but the red-hot poker is replaced by a box of sweetmeats—the bowstring by a medal hung around the neck—the badge, not of death, but of idiocy and cowardice. Commodus is brave nowhere but in the arena, with kittens, and puppy dogs, and women, for his antagonists; a veritable master Thomas Nero—see Hogarth's progress of cruelty. A Ukase, backed by a hobby-horse, or a medal, and a box of sweetmeats; goody goodies, as the overgrown children say, is the full consideration paid, had, and received, for the surrender of the autocratic crown of the largest empire in the world, and some say the most powerful—of the proud eminence of the umpire of Europe. How vastly amiable and sentimental! A Ukase now does what was formerly done with a red-hot poker, or a bowstring; a Ukase, with a most affectionate fraternal letter, a box of sweetmeats, a hobby-horse, or a medal—as we, in our barbarous, slave-holding country, do sometimes hang a quarter of a dollar round a child's neck to keep it in good humor—all cooled, however, with the blood of a few real adherents to legitimacy—in the persons of the guards of the Empire, faithful among the faithless—to make the charm firm and good. Would the gentleman from North Carolina reduce us to worse than this Russian barbarism?"

This vulgar ribaldry was spoken by this man in open Senate; the European ministers, the Russian minister, were or might have been present. The speech, such as I have read it, was published in the newspapers, and was doubtless, as a part of the political transactions of the United States, transmitted to the Emperor of Russia, by his minister then in this country. After this, who could have selected this man as an accomplished statesman, to represent this American Government at the Russian court, with any hope or intention that he should, by his diplomatic services, sustain the dignity, advance the character, or subserve the interests of this nation?

Permit me to offer one other reason why this man could not have been appointed for any national purpose. The peculiarities of his mind render him incapable of any public

diplomatic service. The mind, like the fountain, is known by its effusions. Let me read from one of his speeches on Executive powers, as published by him.—[Gales and Seaton's Register, vol. 2, p. 390.]

"Having thus, sir, disburdened myself of some of the feelings that have been excited by the gallant and fearless bearing of the gentleman from North Carolina, allow me to go on and question some of his positions.

"One of them is the durability of the constitution. With him and with father Paul (of the constitution of Venice) I say "*esto perpetua*." but I do not believe it will be perpetual. I am speaking now of what Burke would call high matter. I am not speaking to the groundlings, to the tyros and junior apprentices; but to the grey-headed men of this nation, one of whom, I bless God for it, I see is now stepping forward, as he stepped forward in 1799, to save the republic. I speak of William B. Giles. I speak to grey heads; heads grown grey, not in the 'receipt of custom' at the treasury, of the people's money; not to heads grown grey in iniquity and intrigue; not to heads grown grey in pacing Pennsylvania avenue; not grown grey in wearing out their shoes at levees; not to heads grown grey (to use the words of the immortal Miss Edgeworth, the glory and the champion of her lovely sex and wretched country) in ploughing the four acres. Am I understood? There is a little court, sir, of the "Castle" of Dublin, called the four acres; and there, backwards and forwards, do the miserable attendants and satellites of power walk, each waiting his turn to receive the light of the great man's countenance; hoping the sunshine; dreading the cloudy brow. Spenser has well described the sweets of this life, and technically it is called ploughing the four acres. Now, when a certain character, in one of her incomparable novels, Sir Ulic—I have forgotten his name, but he was a McSycophant courtier, placeman, pensioner, and parasite—upbraided that kind, good-hearted, wrong-headed old man, King Corny, with his wretched system of ploughing, the King of the Black Islands ("every inch a king") replied, that there was one system of ploughing worse even than his: and that was ploughing the four acres. This was a settler to the McSycophant."

Was a mind like this, fitted, and provided, and regulated for the labors of the statesman and great diplomatic minister? Sir, when this gentleman was at the zenith of his intellect, and in his most lucid years, Mr. Jefferson had adjudged him unqualified for such services as this appointment, had it been made for public purposes, called on him to perform.

Sir, if not for the public service, then he must have been appointed to preserve the machinations of the Secretary of State, and the administration carried on by him under the Presidential name, from the hostility of this ancient adversary of all former administrations. To illustrate and confirm this important and deeply interesting fact, permit me to give a very brief sketch of the political life of this singular man.

At the commencement of Washington's administration, he was a schoolboy. To prove this fact, and also to lay open the very source and fountain of his bitter hostility to the next President, I will read a part of one of his speeches from Gales and Seaton's Register, vol. 2, p. 399—

"Now, sir, John Quincy Adams coming into power under these inauspicious circumstances, and with these suspicious allies and connexions, has determined to become the apostle of liberty, of universal liberty, as his father was, about the time of the formation of the constitution, known to be the apostle of monarchy. It is no secret—I was in New York when he first took his seat as Vice President. I recollect—for I was a schoolboy at the time, attending the lobby of Congress, when I ought to have been at school—I remember the manner in which my brother was spurned by the coachman of the then Vice President, for coming too near the arms blazoned on the scutcheon of

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the vice regal carriage. Perhaps I may have some of this old animosity rankling in my heart, coming from a race who are known never to forsake a friend or forgive a foe."

From this, the waters of bitterness have flown in a stream, so abundantly on the second and fifth Presidents of the United States. To overthrow the first of these, this man joined himself to his great political rival.

He grew into hostility with Jefferson in a very few years. For he has ever been a star without beams, except of a malign and blighting influence. Suffer me to illustrate this truth by reading from his speeches:

"FEBRUARY 28th, 1806.—Mr. Clarke, of Virginia, moved to postpone until the 3d of March, Mr. Randolph's resolution to amend the constitution of the United States, so that all the United States' judges should be removed by the President, on the joint resolution of both Houses of Congress. In reply to a remark made by Mr. Conrad, Mr. Randolph said, 'He (Mr. Conrad) belonged to a class of men which I highly respect, for the plain reason that I belong to it myself. He says the time is approaching when every man engaged in agricultural pursuits must be anxious to go home; and, therefore, he does not wish at present to act on the resolution I have laid on your table. True! but when men, be they agricultural, mechanical, or of any other profession, undertake any business, it is their duty to go through with it at every hazard. If the situation of affairs warranted it, I should be willing to adjourn for two or three months. But I never can agree to adjourn in the present perilous state of affairs, and leave the country to a blind and fortuitous destiny. I must first see something like land, some foothold, something like certainty, instead of a political chaos, without form or body. Before I consent to go home, I must see something like a safe and honorable issue to our differences with foreign Powers, and I must see, I hope, another thing—something like an attempt to bring the constitution of this people back to the principles on which this administration came into power.'"

On Spanish affairs—

"APRIL 5, 1806.—Mr. Randolph moved to amend the secret journal, by inserting in it the message of the President of the 6th of December. In the course of his speech he said, 'I found, from a conversation with what has been considered the head of the first Executive Department under the Government, that France was the great obstacle to the compromise of Spanish differences; that France would not permit Spain to come to any accommodation with us, because France wanted money, and that we must give her money. From the moment I heard that declaration, all the objections I originally had to the procedure were aggravated to the highest possible degree. I considered it a base prostration of the national character, to excite one nation by money to bully another nation out of its property; and from that moment, and to the last moment of my life, my confidence in the principles of the man entertaining those sentiments died, never to live again.'"

Whence this hostility? Had he become a federalist, and set himself to rebuilding the fabric which, as we are told, he had overthrown? Not so; for rebuilding he had no genius, no taste. The cause of his opposition was well known in those days; nor can any one doubt that a knowledge of it has come down to the present Secretary of State.

When Mr. Madison came into the Presidency, Mr. Randolph, if not with him, was not against him. His love of change, or of opposition, or some private political grief, did, in 1811-12, bring out this statesman of Roanoke in bitter hostility to this third President. The last war was the great distinguishing characteristic of Mr. Madison's administration. On the 20th of November, 1811, the Committee of Foreign Relations reported on that subject,

and recommended to the consideration of Congress six resolutions. The first was to fill up the ranks of the then existing army. The second recommended the raising of ten thousand additional troops. By the third, the President might receive fifty thousand volunteers. The fourth gave power to the President to call out the militia. Ships of war were to be put in service by the fifth; and the sixth authorized private vessels to arm in their own defence. When I say Mr. Randolph opposed these resolutions, I do it merely to show his hostility to the administration of Mr. Madison. I will read from Niles's Register, vol. 1, p. 318, a small part of one of his speeches on this occasion, to show not only this hostility, but also to illustrate the contempt which he has ever felt for military men and measures:

"No sooner was the report laid on the table, than the vultures were flocking round their prey, the carcass of a great military establishment—men of tainted reputation, of broken fortune (if they ever had any) and of battered constitutions, 'choice spirits, tired of the dull pursuits of civil life,' were seeking after agencies and commissions; willing to dose in gross stupidity over the public fire, to light the public candle at both ends. 'Honorable men undoubtedly there were, ready to serve their country; but what man of spirit or self-respect would accept a commission in the present army?'"

Sir, let me not be misunderstood. I am stating historic facts; Mr. Randolph's hostility to the then administration, not my own opinion of that war, or of his opposition to it. Had I been here at that time, I might have joined in that opposition; for the representatives from Rhode Island both opposed these resolutions; nor do I recollect that the people of that State ever censured them for that opposition. We might go through the whole congressional record, and we should find Mr. Randolph, at all subsequent times, equally hostile to the administration of Mr. Madison.

When Mr. Monroe came into the Presidency, Mr. Randolph was his advocate and supporter. In the last year (1824-'5) of his administration, he had changed fronts. For at that time it was one of his common sayings, "Mr. Monroe came into power by universal consent; and he would go out with equal unanimity." I will read from Gales and Seaton's Register, vol. 2, p. 405, what he said in the Senate (1826) concerning this venerated patriot statesman: "We (said he) altered the constitution to guard against that scoundrel—I will not read the name of the man; though he may have sinned, yet has he also immeasurably suffered—though not greater than him who, after the event, formed the union of honest men of all parties." Who, sir, was the man said to have united the honest men of all parties? James Monroe. Such a coalition might be sure of John Randolph for an adversary.

Was Mr. Van Buren ignorant of all these traits in the character of this man? He knew them well. He knew more; he was fully aware that no person on earth could be more hostile to military men than this same Mr. John Randolph. In confirmation of this, I will read an extract from one of his speeches:

"I own a natural jealousy of military men—it grows out of love of country—it is strengthened and kept alive by the multitude of examples in history, ancient and modern, of the fall of empires and the revolution of States; the misery and wretchedness brought upon the human race by the ambition and pride of military men." Vide speech against Gen. Wilkinson.

"I am willing to give to every man a just and reasonable reward for his public services, both in pay and gratitude; but the military character is so rarely satisfied with any thing less than direct worship, that I am of opinion—I always was of the opinion, we could not be too watchful of the aspiring ambition of a military commander." Same speech.

No man in the nation was more adverse to General

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Jackson's election to the Presidency than Mr. Randolph was in 1822. In that year, he said, in his letter to the people of Charlotte—"The election of General Jackson to the Presidency is not to be dreaded, as it can in no event possibly occur: the people of the United States have not yet become so corrupted as to choose a man of military talents to govern the national councils, in opposition to the splendid talents of Mr. Crawford, or instead of any other good man in the country." See letter to the people of Charlotte, 1822.

The advancement of Mr. Adams to the last Presidency awakened all his animosity against that gentleman and his venerated father. He therefore attached himself to the party of General Jackson, and especially to that gentleman; not from esteem, respect, or friendship—not from his qualities as a man, a hero, or a statesman—but as the only instrument by which he could exclude Mr. Adams from a second Presidential term.

"Party, like calamity, brings men into company with strange bedfellows." Mr. Randolph soon found himself unpleasantly lodged; and before the middle of February, 1829, he said emphatically, "I do not attend the inauguration; mark that, sir!" He left the city before that event; but not until, as rumor, the untiring herald of distinguished personages, announced that he had delivered his ominous prediction. What was it? "Never, sir, never will the American purple again fall on the shoulders of a gentleman."

I do not pretend to say that the Secretary regarded this prediction as literally excluding him from the succession; but could he quietly manage his "State affairs" while such a man was at Roanoke, or in Virginia, or even in the United States? Sooner, sir, would the fox creep into the farm yard in the daytime, or curl himself down to sleep in his lair while he snuffed the huntsman, or heard the hounds in the southwest breeze of the morning. Did he not quiver at the mere name of this Warwick, this king-killer, and king-maker; this John Randolph, who had set up Presidents, as boys set up nine-pins, to knock them down again? Such a man, the Secretary knew, could not be, for he never had been, quiet under any administration. He had not been satisfied with the administration of Jefferson, of Madison, of Monroe; could he be satisfied with this—God only knows whose administration it is.

Sir, the Secretary has waylaid, entrapped, caught, exported, exiled, and sent this man to plough the four acres, at a distance of four thousand miles from his own patrimonial fields and trees. The great object of Mr. Van Buren has been to get him out of his way—to send him abroad. As a minister, he knew he could do nothing—he expected—he intended he should do nothing—deserve nothing—receive nothing, but the ridicule of all other nations, the pity of his own, and the contempt of the Secretary himself and his partisans.

This heartless politician has, to render this tremendous adversary powerless at home, lured him from his independence, the boast and glory of his manhood, to an old age of foreign surveillance; to come home soiled and spattered to the very eyes in treasury dirt; to shrink into retirement and insignificance; and be like Piso, returned from the inglorious administration of his Macedonian province. Shall we, sir, in aid of these schemes of the Secretary, and to put him in a condition of quiet machination against the laws, the constitution, and the great interests of this nation, appropriate this money, and thereby legalize and sustain this measure? I trust in God we shall not. Pay the man, if you please—for going out, for coming home—send out a ship of war for him; it will add, perhaps, less than thirty thousand dollars to the expenditure. Let him have his nine thousand dollars outfit—the President, it has been said, advanced it to him from his private purse—restore it to him; do not suffer ourselves to be in debt to the Chief Magistrate of the nation. It is all a

bauble, a mere child's whistle; and the people will and must pay dearly for this toy of their Secretary. But let us be rid of it, and of this "State mission," of its memory; if possible, of its deep and mortifying disgrace.

If this course be taken, our relations with Russia may be redeemed, restored, and placed upon a safe and honorable footing. If no one else will do it, I will move to go into Committee of the Whole on the state of the Union, for the sole purpose of moving an appropriation of nine thousand dollars for an outfit, and nine thousand dollars for a first year's salary, to enable the President to send out to Russia an efficient mission, and one in all respects different from this of the Secretary. For never, sir, since the revolution, has there been a time when the interests of the United States more urgently required a fair, honorable, and dignified representation in the courts of Europe.

#### FRIDAY, FEBRUARY 4.

Mr. TUCKER, of South Carolina, asked and obtained leave to lay on the table an amendment to the bill yesterday reported by the Committee on Manufactures, to repeal a part of the act to reduce the duty on salt.

If adopted, the bill will read as follows:

"Be it enacted, &c. That all acts and clauses of acts imposing a duty on salt, be, and the same are hereby, repealed."

#### DUTY ON SALT.

The House then resumed the consideration of the bill yesterday reported by the Committee on Manufactures, to increase the present duty on salt imported; and the question being on the rejection of the bill—

Mr. MAXWELL, of Virginia, said, that having presented the memorial of the salt manufacturers of Virginia, out of which the bill had arisen, it would, therefore, not be considered unbecoming in him to detain the House a few moments with some remarks in relation to the subject now under consideration. It was not expected by me, said he, at the time that the memorial was presented, that any legislation would arise out of it, further than that many useful facts would be presented thereby to the Committee on Manufactures, which, united with their knowledge in relation to this subject, would enable them to present to this House, and this nation, many facts which it is important should be known, in relation to the rise, progress, and present situation of the salt manufacturer of the United States. Nor is it my wish now, said Mr. M., that the duty upon salt shall be either augmented or diminished during the present session, or that any disposition of the bill shall be made, other than that it be laid upon the table, and printed, together with the report of the committee. I have looked, said Mr. M., into that report, and am prepared to say that it contains useful information in relation to the manufacture of the indispensable article of salt—and which it appears to me that those who think that the duty should be entirely repealed, ought to be in possession. I can see no well founded objection to laying the bill on the table, and printing the report. I trust that the bill will not be rejected. It will certainly not be contended that it is best in future to legislate in the dark upon a matter of so much interest to the nation. We have had, said Mr. M., a bill laid upon our tables from a committee of the Senate, to repeal the duty on salt entirely; and one from the Committee on Manufactures of the House of Representatives, to place the duty at fifteen cents per bushel: this furnishes evidence that each member ought to examine the subject deliberately, before he acts upon a matter of so much importance. Some gentlemen seem not to be disposed to search for information upon this subject, or into the propriety or the impropriety of any duty, for the protection of the domestic manufacturer of salt, but denounce all duty, by crying aloud

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that it is a war tax. This only goes to prove that the course which I now advocate, should be adopted; that such gentlemen may obtain some information in relation to that matter, for they most certainly have not taken the trouble to examine into the history of the salt duty of the United States. The duty upon salt did not take its rise during the last war, but is coeval with the legislation of this Government. In 1789, a duty of six cents on each bushel was laid on foreign salt; this duty being considered insufficient to protect the domestic manufacturer, in 1790 the duty was augmented to twelve cents on each bushel; in 1797, the duty was augmented to twenty cents upon the bushel of foreign salt, and has continued uniformly from the year 1790 until the beginning of the last month, excepting the space of seven years, during which time no duty was collected upon foreign salt. I would suggest to those that are disposed to give no encouragement to the domestic manufacturer, for the benefit of the people, to look into the price which the people had to pay for salt during the period in which no duty was collected; I think that they will find, from the accounts of the sales actually made, that people paid a higher price for their salt during these seven years, than during any other seven years since the commencement of the Government until the present time. In the year 1813, an act passed fixing the duty upon foreign salt at twenty cents, which expired under a limitation contained within itself. The tax, laid by this act, may be called a war tax. But, in 1816, an act passed continuing the duty at twenty cents. Was the duty laid upon foreign salt in 1789, 1790, 1797, and 1816, war taxes? It may be said that the tax of 1816 was to enable the Government to discharge the public debt that accrued in consequence of the war; that, in addition to the encouragement of the domestic manufacturer of the article, I believe, was the cause of the act of 1816. Those who suppose that the duty upon salt is a war tax, will certainly agree to vote against the motion to reject the bill, with a view that it may be laid upon the table, and the report printed, in order that they may obtain more correct information in relation to the salt duty. All I wish, said Mr. M., is information upon this interesting and very exciting subject. The amount of capital vested in the manufacture of salt in the United States, is not less than seven millions of dollars, which, together with the difficulty experienced by the people of this country during the last war, in obtaining the article, ought to admonish every one of the importance of having full information upon the subject, and of the propriety of legislating cautiously, lest the manufacturer of American salt be injured, and, in case of war with a foreign nation, the same consequences result that have heretofore taken place.

Some gentlemen think information upon this subject is unnecessary, because all encouragement to American industry and domestic manufactures is inexpedient and unconstitutional. The early history of the legislation of this country shows a different view of this matter. The opinion of General Washington in 1796—the opinion of Mr. Jefferson in 1808 and 1816—the opinion of Mr. Madison in 1809 and 1815—the opinion of Mr. Monroe in 1821 and 1823—and the opinion of the present Chief Magistrate, in his last message, show that to encourage the domestic manufacturer of such articles as are essential to the independence and prosperity of the country, and especially those which are indispensable in time of war, is both expedient and constitutional. Can any be more essential in peace or war than salt? Is it not as necessary that the soldier should have his salt and rations, as a coat and musket? I have no disposition to go into an argument upon the question whether the duty upon salt should be augmented or diminished. I have only to say, that I believe a reasonable degree of encouragement should be given the manufacturers of salt by the Government, to enable them to stand against foreign competition, to render

this country independent of foreign nations, and to ascertain what measure of duty should be laid in subsequent legislation upon this subject. I consider it important to have the facts which I know, from a view of the report, it contains. I cannot subscribe to the doctrine, that because an article is indispensable, and enters into the daily consumption of every family, that for this reason the Government should give no encouragement to the American enterprise that attempts to increase the article at home. It appears to me, the more essentially necessary an article is to the people, the more care should be taken that a supply of such article should always be had without being dependent upon foreign nations. Let us, said Mr. M., have the report of the committee printed, that we may have information upon this matter, and that any future legislation upon it may be done advisedly.

Mr. CHILTON, of Kentucky, without renewing his opposition of yesterday to the bill, (which opposition produced the question of rejection,) and with a view to terminate a debate which must be useless, and with an understanding that the subject should not be called up again at the present session of Congress, moved to lay the bill and report upon the table; but withdrew the motion at the request of

Mr. MCCREERY, of Pennsylvania, who briefly stated the reasons why, though he had been uniformly opposed to the reduction of the duty upon salt, he should vote to get rid of the bill, either by rejection or by laying it upon the table. He believed that the discussion of the bill would be a useless consumption of time, because there was no probability of arriving at a decision in its favor at the present session. There remained now but about twenty-three business days of the session, and a vast number of bills (some of them important) yet remain to be acted upon.

Mr. THOMPSON, of Georgia, objected to any course, with regard to this bill, which should leave it open as a subject for consideration. The House had been assured by the gentleman from Virginia, as it had been yesterday assured by the chairman of the Committee on Manufactures, that he did not wish any legislation upon the subject at the present session. Why, then, Mr. T. asked, was the subject introduced here at all? For what purpose? It is certainly not to waste the small remnant of time yet hanging on our hands, said he, when all sides of the House seem disposed to husband it. It must be to give a moral effect to the proposition in the bill; to have the report printed and spread over the country—and for what purpose? Why, sir, to force upon us, if they can, an increase of this duty. He regretted to hear of the motion to lay the bill on the table; because an agreement to a proposition of that sort would give something of character to the general proposition of the Committee on Manufactures. In the sincerity of his heart, he said, he wished this proposition to pass off without being the cause of an increase of the present excitement in the Southern country. If gentlemen are disposed to force the measure upon us, however, said Mr. T., let them do it at once—bring up the question, and decide upon it. If the Committee on Manufactures do not think proper to withdraw the proposition, let the bill go on without delay to a final decision. I object to the second reading.

Mr. HAYNES, of Georgia, said, if he believed that the present discussion of this bill would lead to a further reduction of the duty on salt, he should not object to it; but, believing that the consideration of the bill now would lead to nothing but a further consumption of time in debate, he moved the previous question.

The motion for the previous question was not seconded by a majority, the yeas being 78, the nays 90.

Mr. STERIGERE, of Pennsylvania, then moved to lay the bill on the table.

The motion was declared not to be now in order, the



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question of rejection having been renewed by Mr. THOMPSON's objection to the second reading of the bill.

Mr. BLAIR, of South Carolina, said he hoped the bill reported by the Committee on Manufactures for repealing the act passed at the last session, reducing the duty on salt, would neither be laid on the table, nor favorably entertained by the House in any shape whatever. The great excitement of the South, and particularly of that State which he had the honor, in part, to represent, was well known to Congress and to the American people. The popular indignation in South Carolina against what he and the people of that State considered the iniquitous and unconstitutional legislation of Congress, (especially in relation to the tariff,) was almost universal; and it was with difficulty they had been restrained from adopting measures for their own relief, and for the redress of their own wrongs—much pains had to be taken to defeat the call of a convention. To what results such measures would have led, he would not now inquire, even if it were possible to ascertain them; they were at least alarming, and the contemplation of them disagreeable. And, after what had been done here at the close of the last session, he had thought the call of a convention, or any action whatever, on the part of South Carolina, unnecessary, premature, and hazardous. He had, therefore, discouraged every thing of this kind. He had opposed the call of a convention, and he believed his colleagues would bear him out in the assertion, that he had contributed very much to the defeat of that measure. He claimed no merit for this; and believed he would not subject himself to any imputation of vanity in making the declaration, because, if the present proposition succeeded, he should regret the advice he had given to his constituents during the last summer and fall. He had told the people at home that things here were rapidly changing for the better. Among many other evidences of this change, he had adverted, both verbally, and in the newspapers, to the reduction of the duty on salt. But if, instead of advancing still further to correct the evils of which the South complains—if, instead of going on with the reformation of the tariff system, we recede, and undo the little we have already done, he should be ashamed to meet his constituents. He should, with pain and contrition, have to acknowledge that, with the best intentions, he had given them, perhaps, wrong advice; that he had been deceived himself; and had, innocently, held out to them delusive hopes and fallacious expectations. He, however, was not disposed to argue the matter at this time. He took it for granted the House would reject this bill by an overwhelming majority. He, therefore, hoped argument against it was unnecessary. Besides, his feelings, in relation to this subject, were too strong to authorize him to run the hazard (at this moment) of saying what might be regarded as indecorous. Candor, however, required, and an imperative duty to his constituents, to himself, and to the House, enjoined it upon him to declare that, if this proposition should succeed, the time for argument will have passed away.

Mr. HUNTINGTON, of Connecticut, said that the only wish of the Committee on Manufactures, he believed, was that this subject should be placed in a situation to be examined with a view to future consideration. To do this, the committee had taken no extraordinary course, but had presented a report stating their views of it, accompanied by a bill. If, without examining either the memorial of the manufacturers, or the report of the committee, the House should decide to reject the bill, it would certainly be an unusual proceeding, to say the least of it. He hoped, therefore, that the motion for rejection would not prevail. With a view to enable the House to look into this memorial from a most respectable class of men largely engaged in the manufacture of salt, and to peruse the report, he moved to postpone the further consideration of the bill to this day two weeks.

Mr. WILDE, of Georgia, made a few observations against the postponement. Whatever was the disposition of this House, he thought it better that it should do at once what it is disposed to do ultimately.

Mr. MALLARY rose to correct an impression on the mind of the gentleman from Georgia, altogether erroneous. There was no intention, on the part of the Committee on Manufactures, to repeal the law of last session. He entered into a statement of the views of that committee, to show the motives that had actuated them in reporting the present bill, and left it to the House to take such order on the subject as they might deem proper.

Mr. NUCKOLLS said: It will be recollected, by those members of the House with whom I have had the honor of serving on this floor for the last four years, that I have rarely trespassed on their patience, nor would I do so now, but for the strong feeling and deep interest which my constituents, in common with myself, have on this subject. And here, sir, permit me to remark, that I differ, widely differ, from my political friends of the South, in the course they pursue in relation to this bill. They seem inclined to avoid discussion, by rejecting this bill on its second reading—before it has undergone that consideration its importance demands, and even before the accompanying report has been printed for our examination. Sir, this is too nearly allied to the practice which has sprung up in this hall within the last three years, to meet my approbation. What is that practice? Why, sir, to refuse even the courtesy of a consideration to many of the most interesting topics introduced here by the representatives of the people. I had been taught (before my acquaintance with it) that this was a deliberative assembly, organized by the people, to hear, consider, discuss, and decide upon all questions affecting their interests, or involving their liberty. But, sir, is this true? Are we thus mindful of the rights of the people, and of the respect due to those whom they send here? It is a notorious fact, that there is an organized majority in this House, whose settled practice it is to scout from these walls every proposition looking to a modification of the restrictive system; thereby virtually refusing, to a large portion of the American people, the constitutional right of exposing to public view the grievances under which they labor.

Sir, I have uniformly opposed every thing of this sort as being proscriptive in principle, disrespectful to the American people, and unbecoming the dignity of this House. I am not afraid to submit any question to their candid and impartial judgment, when it shall have been fully and deliberately set before them by the debates in this assembly, and am therefore none the less opposed to refusing this bill a second reading, because I am against its principles and its objects. I am for giving every question a fair hearing, whether for or against me.

Mr. Speaker, the part I have borne among the people I represent, and those of the entire State from which I come, has been similar to that of my colleague, [Mr. BLAIR,] who last addressed us. Like him, I sought to allay the fervid excitement which prevailed on my return among them. They had seen and felt, with the sensibility of enlightened freemen, that their rights were invaded by unjust taxation, and themselves insulted by your refusal to hear their representatives. Sir, I felt in my own bosom that there was ample provocation for all this. But, like themselves, I was devoted to the Union, and its harmonious preservation. I exhorted to moderation, forbearance, and a reliance on the justice of their Northern and Western brethren. I alluded to the modifications of the tariff at the close of the last session, as affording evidence of that justice. But, sir, respect for their intelligence, and my own self-respect, would not permit me to disguise the fact, that all those modifications, except that of the salt duty, were but adding to the effective strength and fixed character of the system of which they complain.

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*James Monroe.—Susan Decatur.*

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ed. Well, sir, what was the result? Our people are even now looking, with anxious expectation, to this body for the realization of these predictions. When, therefore, the bill introduced yesterday by the honorable chairman [Mr. MALLARY] was presented, I dissented from the views of my honorable colleagues, [Mr. BLAIR and Mr. TUCKER,] and others, in this, that, whilst they desired to suppress the discussion of this question, with the view of avoiding the excitement growing out of it, I am decidedly in favor of playing out the game—of meeting the question fully and boldly—of discussing it calmly and deliberately, and ascertaining whether my assurances to my constituents are to be realized. I trust, therefore, that the gentleman from Georgia [Mr. THOMPSON] will withdraw his opposition to the second reading of this bill. Let the report and bill be referred and printed, and, after time for examination, let them come up for discussion. Sir, I will vote at any time for taking up and deciding the fate of this matter. The people of South Carolina are in great doubt and perplexity on this subject; they have been assured that relief from their unconstitutional burdens would be progressive; but if, on the contrary, our course is to be retroactive, by increasing instead of diminishing their grievances, we desire to know it, in order that we may set about relieving ourselves from them, "peaceably, if we can; forcibly, if we must."

The excessive duty heretofore levied on foreign salt constitutes, in the domestic manufacturer, the most odious and unjustifiable monopoly we have ever been called on to endure. It is an article necessary to the consumption of every living creature—the poor as well as the rich are compelled to have it or perish; and yet a few wealthy manufacturers of it are protected in making it, by a duty of two or three hundred per cent., collected chiefly from the poor. The average cost of imported salt does not exceed nine cents the bushel, and I am informed by an honorable gentleman from Virginia, coming from a salt district, that it can be made there for eight cents. On what principle, then, is it, that we are to pay a tax so disproportioned to the original cost?

Sir, I have learned, from high authority, that the manufacturers of salt, where it does not cost more than eight to ten cents to make it, have been known to sell it, at their own doors, at from seventy-five to one hundred cents per bushel; and that, as they proceeded into the surrounding country, the price was increased to from one dollar and twenty-five cents to one dollar and fifty cents, until their article began to meet the competition of foreign salt; and then they would reduce the price in proportion to the competition, until they came down to sixty cents, and this, too, after carrying it more than one hundred miles. But it is not my intention now to go into the general question; this will be more appropriate when the subject shall come up, after the bill and report shall have been referred and printed, and until then I dismiss it.

Mr. Speaker, an honorable gentleman from Virginia, [Mr. DOBURNER,] in opposing the other day the second reading of a bill introduced by my friend and colleague, [Mr. DAVIS,] to repeal the 25th section of the judiciary act, said he regarded the bill as being equally important, as a proposition to repeal the Union, and therefore he could not consent to its second reading. Sir, I will not say that the bill presented yesterday by the gentleman from Vermont [Mr. MALLARY] is equivalent to a proposition to repeal the Union—but when we consider the strong excitement and deep sense of unconstitutional oppression which pervades the entire South, and take in connexion with it the effort, on the part of the gentleman, [Mr. MALLARY,] to extend that oppression, it is something very like it. But, differing from the gentleman from Virginia as to the proper course on such trying occasions, I desire to meet and to look it in the face. Sir, the people speak through representatives on this floor,

and nothing is too sacred for their examination. I therefore entreat the House, and particularly the Southern portion, to withdraw all objection to the second reading, and to abstain from using this illiberal weapon of defence, by which they have so often been unkindly scourged. We shall then see whether, instead of the duty going down to ten cents, as provided by the law of 1830, it be fixed at fifteen, and thereby an earnest given that we are to expect still further imposition. Should such be the case, I can but fear that, in the future history of this country, and in its influence on the harmony and perpetuity of our Union, the sum of five cents on salt may be equally important with three cents on tea.

When Mr. NUCKOLLS concluded, the SPEAKER announced that the allotted hour had expired.

Mr. CARSON, of North Carolina, moved to suspend the rule, that the consideration of the subject might go on; but the House refused to suspend the rule.

#### JAMES MONROE.

The bill for the relief of James Monroe was read the third time; and the question being, "Shall it pass?"

Mr. CHILTON called for the yeas and nays on the question, and they were ordered by the House. Being taken, they stood as follows:

YEAS.—Messrs. Arnold, Bailey, J. S. Barbour, Bartley, Bates, Beekman, Bell, Brown, Buchanan, Butman, Cambreleng, Campbell, Childs, Coleman, Condict, Conner, Coulter, Crockett, Creighton, Crocheron, Crowninshield, Davenport, John Davis, Deberry, Denny, De Witt, Dickinson, Doddridge, Duncan, Dwight, Eager, Earll, George Evans, Joshua Evans, Edward Everett, Horace Everett, Finch, Forward, Gilmore, Gordon, Green, Grennell, Gurley, Hawkins, Hemphill, Hinds, Hodges, Holland, Howard, Hughes, Ingersoll, Thomas Irwin, William W. Irvin, Jarvis, Johns, Richard M. Johnson, Kenyon, Lent, Mallary, Martindale, Martin, McCreery, McDuffie, Mercer, Miller, Mitchell, Monell, Norton, Nuckolls, Overton, Pearce, Pettis, Ramsey, Randolph, Reed, Rencher, Richardson, Rose, Russel, Scott, William B. Shepard, Shields, Semmes, Sill, Ambrose Spencer, Richard Spenser, Sterigere, Stephens, Strong, Sutherland, Taliaferro, Taylor, Test, Tracy, Varnum, Verplanck, Washington, Wayne, Campbell P. White, E. D. White, Wilde, Wilson, Young.—104.

NAYS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Archer, Armstrong, Noyes Barber, Barnwell, Barringer, James Blair, John Blair, Bockee, Boon, Borst, Bouldin, Brodhead, Cahoon, Chandler, Chilton, Claiborne, Clay, Clark, Coke, Cooper, Cowles, Craig, Crane, Crawford, Warren R. Davis, Desha, Draper, Brayton, Ellsworth, Findlay, Foster, Fry, Gaither, Hall, Halsey, Harvey, Haynes, Hoffman, Hubbard, Hunt, Huntington, Ihrie, Isacks, Cave Johnson, Kincaid, Perkins King, Adam King, Lamar, Lea, Leavitt, Lecompte, Letcher, Lewis, Loyal, Lumpkin, Lyon, Magee, Marr, Thomas Maxwell, Lewis Maxwell, McCoy, McIntire, Muhlenberg, Pierson, Polk, Potter, Roane, Sanford, Aug. H. Shepperd, William L. Storrs, Swann, Swift, Wiley Thompson, John Thomson, Trezvant, Tucker, Vance, Vinton, Weeks, Whittlesey, Williams, Yance.—88.

So the bill was passed.

On motion of Mr. MARTIN, the title of the bill was amended to read as follows: "A bill to provide for the final settlement and adjustment of the various claims preferred by James Monroe against the United States."

The bill from the Senate for the relief of William Smith, administrator of John Taylor, deceased, was read the third time, and passed.

#### SUSAN DECATUR.

Mr. McDUFFIE submitted a motion that the House do now take up the bill to compensate Susan Decatur, widow

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Judge Peck's Trial.—The Salt Duty.

[FEB. 5, 1831.]

and legal representative of Captain Stephen Decatur, deceased, et al.

Mr. WILLIAMS said that this was as good a time as any other to try the question whether the House meant to consider the bill at the present session, and he therefore called for the yeas and nays on the question of consideration. They were ordered by the House, and, being taken, stood—yeas 85, nays 100.

So the House refused to consider the bill.

#### SATURDAY, FEBRUARY 5.

Mr. HUNT, from the Committee on the Public Lands, to which was recommitted the bill to authorize the State of Missouri to sell the lands reserved for the use of schools, a seminary of learning, and salt springs, in that State, reported an amendatory bill; which was twice read; and the question being put on engrossing the bill for a third reading,

Mr. RICHARDSON observed, that, on hearing the bill read, he perceived that it contained a provision to which he could not consent; but the subject presenting itself suddenly, he was not prepared at this moment to suggest a remedy. The bill provided that if the proceeds of these lands should prove insufficient for the permanent maintenance and support of schools throughout the State, no part of it could ever be applied. Should this prove to be the case, said Mr. R., and the fund prove inadequate to the entire support, the whole object would be defeated, and, of course, generations would die in ignorance. This Mr. R. could not consent to; and to allow himself time to prepare an amendment to the section, he moved to postpone the bill till Monday—which was agreed to.

Mr. WICKLIFFE, from the Committee on the Public Lands, reported a bill explanatory of an act for the relief of the officers and soldiers of the Virginia line and navy and of the continental army, during the revolutionary war, approved the 30th May, 1830; which was twice read.

Mr. W. said it was of importance that the bill should be speedily passed. If, however, any gentleman had objections to its passage at this time, he was willing to consent to its postponement for a short time, to allow of an opportunity to examine its provisions. Mr. W. then explained the object of the bill; when the further consideration of it was postponed to Wednesday next.

#### JUDGE PECK'S TRIAL.

Mr. MAXWELL, of New York, from the Committee on Accounts, made a report on the memorial of the witnesses in the case of Judge Peck, attending here during the last session, accompanied by the following resolution:

*Resolved*, That the Clerk of this House be authorized to pay to the witnesses who attended before the Committee on the Judiciary in the case of Judge Peck, at the last session, the same compensation for their attendance and mileage, respectively, as has been allowed to the witnesses who have attended the trial of the impeachment at the present session, deducting therefrom the amount allowed to them at the last session.

The resolution was agreed to.

#### THE SALT DUTY.

The House resumed the consideration of the bill to restore the duty on imported salt—the question being on the rejection of the bill—

Mr. SUTHERLAND rose, and said that one or two of his colleagues had, in the course of the debate upon this bill, moved that the bill be laid upon the table; and having observed that the Speaker refused the motion, declaring it to be out of order, pending an objection to the second reading, he took leave to say that he respectfully apprehended that, from the recorded decisions of the House, the motion ought to be entertained by the Chair

He, therefore, with a view of meeting this question of order, moved that the bill do lie on the table.

The SPEAKER pronounced this motion not to be in order; whereupon,

Mr. SUTHERLAND appealed from this decision. In support of his course, Mr. S. observed, that he meant no disrespect to the Chair, but that he was desirous of knowing whether the decisions made upon motions last year, which were parallel with the present motion, were to be overruled by the Chair. If they were to be set aside, he was anxious that the House should have notice of the fact, and, at the opening of the next session of Congress, we might have the point stated at the back of the journals, where all matters of order are recorded. For if the subject was not disturbed in the way he suggested, and some opinion obtained from the Chair, the practice of the first session of this Congress would appear from the journals to contradict that of the second session. Mr. S. then proceeded to show that it had been decided by the Speaker, during the last year, that the motion to lie on the table took precedence of the question "Shall the bill be rejected?" and cited two or three parallel cases from the journals of the last session, which he read and commented on to show their similarity to the present case. When Mr. S. had concluded,

The SPEAKER rose, and, after admitting that the present decision of the Chair was at variance with the decisions of the last session, which had been cited, proceeded to explain to the House his reasons for the change. It was, he said, after mature reflection on the former practice, and after much consultation with those better qualified than himself to form a correct judgment on the question, that he had come to the conclusion that the former decisions were erroneous; and, being so convinced, his duty to the high and responsible trust reposed in him by the House, did not permit any fear of apparent inconsistency to prevent his following the dictates of his better judgment. The honorable SPEAKER then went into an examination and exposition of the rules of order and the nature of the questions before the House, to show why the former practice was erroneous, and the present decision compatible with the spirit of the rules, with their true application to the question, and with the reason of the case. When the SPEAKER took his seat,

Mr. SUTHERLAND again rose, and observed, a greater man than either of us on parliamentary practice [meaning, it is presumed, Mr. Hatsell,] has said, "it is much more material that there should be a rule to go by, than what that rule is;" and I think upon that ground alone the old practice might well be sustained. As to the reasons addressed to the House by the SPEAKER, with all due deference to the Chair, Mr. S. thought he could readily answer them; but as Mr. Speaker had thought proper to change his opinion on the subject, he felt no disposition to urge the appeal any further, and therefore withdrew it.

Mr. THOMPSON then said, that, in accordance with the wishes of several of his friends, he would withdraw his objection, and let the bill proceed to a second reading.

The bill was accordingly read the second time.

Mr. WILLIAMS then moved that the bill do lie on the table, and the motion was decided in the affirmative by the following vote:

[Mr. BLAIR, of South Carolina, had first voted in the negative; after all the names had been called, he observed that, as it seemed now to be the understanding that the bill should be laid on the table, not to be taken up again during the session, he would change his former vote on the question, and now vote for the motion.]

YEAS.—Messrs. Anderson, Archer, Armstrong, Bailey, N. Barber, J. S. Barbour, Barringer, Bartley, Bates, Baylor, Beckman, Bell, James Blair, John Blair, Bockee, Borst, Brodhead, Brown, Butman, Cahoon, Cambreleng,

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*Books for the use of Members.—Salt Reserves in Illinois.—Indian Affairs.*

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Carson, Chandler, Chilton, Claiborne, Clay, Clark, Condict, Conner, Cooper, Coulter, Craig, Crane, Crawford, Crockett, Creighton, Crocheron, Crowninshield, Davenport, John Davis, Deberry, Denny, Desha, De Witt, Doddridge, Dorsey, Draper, Dwight, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Findlay, Finch, Ford, Forward, Fry, Gilmore, Gordon, Grennell, Gurley, Hall, Halsey, Hawkins, Haynes, Hinds, Hodges, Hoffman, Howard, Hubbard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Isacks, Johns, R. M. Johnson, Kendall, Kennon, Kincaid, Perkins King, Adam King, Leavitt, Lecompte, Lent, Letcher, Lumpkin, Lyon, Mallary, Thomas Maxwell, Lewis Maxwell, McCreery, McDuffie, McIntire, Miller, Mitchell, Monell, Muhlenberg, Norton, Overton, Patton, Pearce, Pettis, Pierson, Polk, Ramsey, Reed, Rencher, Richardson, Russel, Sanford, Scott, William B. Shepard, Augustine H. Shepperd, Shields, Semmes, Sill, Speight, A. Spencer, R. Spencer, Standafer, Stephens, Sterigere, H. R. Storrs, William L. Storrs, Sutherland, Swann, Swift, Taylor, Test, John Thomson, Tucker, Varnum, Verplanck, Washington, Wayne, Weeks, Whittlesey, Edward D. White, Williams, Wilson, Yancey, Young.—145.

**NAYS.**—Messrs. Alexander, Allen, Alston, Angel, Barnwell, Bouldin, Campbell, Childs, Coke, Daniel, W. R. Davis, Drayton, Eager, Earll, Foster, Gaither, Hammons, Harvey, Thomas Irwin, William W. Irvin, Jarvis, Cave Johnson, Lamar, Lea, Lewis, Loyall, Martindale, McCoy, Nuckolls, Potter, Roane, Strong, Taliaferro, Wiley Thompson, Tracy, Trezvant, Vance, Vinton, Campbell P. White, Wickliffe, Wilde.—41.

#### BOOKS FOR THE USE OF MEMBERS.

Mr. JOHNSON, of Kentucky, submitted the following resolution:

*Resolved*, That the Clerk of the House of Representatives be directed to procure two hundred and sixteen copies of the debates of the State conventions on the adoption of the federal constitution in 1787, one copy of which to be delivered to each member; and that the Clerk be directed, also, to have preserved for each member an extra copy of the reports of Congress, at each session, and to have the same bound in a strong, cheap, ordinary binding, to embrace the present session, and to continue in future.

In support of the resolution, Mr. JOHNSON said that, when he had the honor of a seat in the other House, he had been provided with the reports of this House, and that they were of value to him. He had an opportunity to read them in the recess, and they therefore became of equal value to his constituents. They would be found of vast importance to members generally.

With regard to the other portion of his resolution, it provided for the purchase of a work of great importance to members, in the discharge of their public duties. The other House had passed a resolution, by which each member of it had been furnished with a copy of that valuable work, and he hoped that the members of this House would also be put in possession of it.

Mr. CHILTON would not consume the time of the House in debating the resolution; but would content himself with calling for the yeas and nays on its adoption.

Mr. INGERSOLL asked for a division of the question.

Mr. CAMBRELENG said the resolution was one of an obnoxious character. If the House was disposed to sanction the measure at all, it should be done by law. Resolutions of a similar character had, at the present session, been referred to the Committee on the Library, and he hoped this would take the same direction.

Mr. JOHNSON said a law was not necessary in this case—it had not been the custom or practice heretofore, and he saw no necessity for it now. The Senate had en-

joyed the benefit of the work, and it was procured without the formality of a joint resolution.

After a few words from Mr. WICKLIFFE, in opposition to the resolution, it was referred to the Library Committee—yeas 75, nays 62.

#### SALT RESERVES IN ILLINOIS.

The bill for the sale of lands in the State of Illinois, reserved for the use of salt springs, on the Vermillion river, in that State, was read the third time, and the question put on its passage.

Mr. DRAYTON opposed the passage of the bill.

Mr. IRVIN, of Ohio, supported it.

Mr. DUNCAN replied, at some length, to the arguments urged by Mr. DRAYTON against the right of the State to these lands; and advocated the passage of the bill, as a measure calculated to promote the interest of the United States, as much as that of the State. He said the reservation was all timbered land, and the land in the vicinity was prairie; that the sale of the timber was necessary for the improvement of the country, and would cause the sale of a much larger quantity of prairie, which was public land. He believed the land was not necessary to support the salt works; the sale of them had been asked for by the Legislature, and he knew it was a measure greatly desired by the citizens of that part of the State.

Mr. WICKLIFFE said the bill had undergone a thorough examination by the Committee on the Public Lands, and that committee was unanimous in the opinion that the bill should pass.

After some further conversation between Messrs. DRAYTON, IRVIN, of Ohio, WICKLIFFE, DUNCAN, and PETTIS, the question was put on the passage of the bill, and decided in the affirmative.

The bill for the relief of Joseph H. Webb, coming up on its passage, it was opposed by Messrs. WILLIAMS, BATES, DRAYTON, and CRAIG; and was supported by Messrs. JOHNSON, of Kentucky, WHITTLESEY, DUNCAN, and CONNER.

[The bill provided for an increase of the pension of the petitioner, on account of increasing disability from a wound he received from an Indian, while carrying the mail through the Indian country. It was opposed, on the ground that Congress had no right to pension other than those who were wounded in the military or naval service. Mr. CONNER, to show that Congress had passed a bill allowing a pension in a similar case, read the law, which granted a pension to the widow and representatives of John Heap, who was killed by mail robbers, while in the act of carrying the mail.]

The question being put on the passage of the bill, it was rejected by a vote of 50 to 72.

MONDAY, FEBRUARY 7.

#### INDIAN AFFAIRS.

Mr. EVERETT, of Massachusetts, presented a memorial of inhabitants of the town of Southampton, in the county of Hampshire, and State of Massachusetts, praying that the act of the last session of Congress, providing for an exchange of lands with certain Indian tribes, and for their removal and permanent settlement west of the Mississippi, may be repealed; that treaties made with the Indians, heretofore, may be inviolably observed; and that the said Indians may be protected in the enjoyment of their lands, and in all the rights secured to them by engagements entered into between the said Indians and the United States. Mr. E. observed, that he had long felt it to be the duty of the House to consider the all-important subject of this memorial. He should, himself, by way of resolution, have called the attention of the House to the subject, had no other member expressed an intention of doing so,

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*Colonization Society.—The Salt Report.—Surplus Revenue.—The Judiciary Reports.* [FEB. 7, 1831.]

if it had been possible, under the rules of the House, to move a resolution. But it was known to the Chair, that, for several weeks past, there had not been a moment when it was in order to move a resolution. A petition from a very respectable community in the State which he had the honor, in part, to represent, had been placed in his hands. By the rules of the House, a petition cannot be debated on the day on which it is presented, but must lie on the table one day. As petitions are received only one day of the week, on Mondays, Mr. E. observed that the memorial which he presented must, under these rules, lie on the table till that day, and then come up as the unfinished business of petitions. He begged leave, therefore, in presenting this petition, to give notice that, when it should come up on Monday next, he should feel it his duty to ask the attention of the House to the very important question of protecting the Indian tribes in the possessions and rights secured to them by treaty and the laws of the United States.

#### COLONIZATION SOCIETY.

Mr. BOULDIN, of Virginia, presented the petition of a number of his constituents, praying aid, from Congress for the Colonization Society, to which he intimated his own disagreement, but moved that it be printed; which was ordered.

#### THE SALT REPORT.

Mr. MALLARY moved that the report of the Committee on Manufactures, on the restoration of the duty on imported salt, be printed for the use of the House.

Mr. CHILTON was opposed to the motion. The bill was done with for this session, by the consent of both its friends and enemies, and he was in favor of letting the report sleep with the bill. The report contained an *ex parte* argument on the subject, which Mr. C. did not wish to send among the people with even this indirect sanction of the House. The country was now in a state of excitement, and every member ought to be willing to allay that excitement, instead of sending forth what would tend to increase it. However untenable the argument of the report—an argument so fallacious that any schoolboy could answer it—the order to print an extra number would give to it some degree of importance. The report was presumed to be the production of an individual of the Committee on Manufactures; and if the practice were to prevail, it would become an easy matter for any member of the House to have his opinions sent forth with this sanction, however obnoxious they might be to the sense of the House. If gentlemen desired to distribute copies of the report, let them do it at their own expense, not at that of the House.

Mr. WILLIAMS moved to lay the motion for printing on the table.

Mr. MALLARY requested that Mr. W. would withdraw the motion, to give him an opportunity of replying to Mr. CHILTON's remarks, but Mr. W. declined yielding to the request.

The question was then put on laying this motion on the table, and was decided, by yeas and nays, in the negative—yeas 82, nays 100.

The report was then ordered to be printed.

#### SURPLUS REVENUE.

The motion submitted some days since by Mr. JARVIS, to print six thousand additional copies of the report of the select committee appointed on so much of the President's message as relates to the surplus revenue of the Government, was again taken up for consideration.

Mr. REED demanded the yeas and nays on the question of adopting the resolution, and they were ordered by the House.

Mr. VANCE moved to lay the motion on the table.

And, on this motion, Mr. HAMMONS demanded the yeas and nays, and they were ordered.

Mr. VANCE, then, to save time and trouble, withdrew his motion to lay the resolution on the table; and the question being put on agreeing to the resolution, it was determined in the affirmative—yeas 100, nays 78.

#### THE JUDICIARY REPORTS.

The House having taken up the resolution submitted some days ago by Mr. WHITE, of New York, to print three thousand additional copies of the report of the Committee on the Judiciary in favor of repealing the 25th section of the judiciary act of 1789, together with the counter report of the minority of the committee—

Mr. BUCHANAN said it might be supposed that he felt some interest in the success of this motion, but really he felt none. The question on the repeal of the 25th section had been settled by the House—settled to Mr. B.'s entire satisfaction. This decision had gone forth to the people, and he saw no good purpose it could answer to send the two arguments of the committee lagging after it through the country. He was therefore opposed to printing any additional copies.

Mr. HAYNES, of Georgia, was in favor of printing the extra copies. The report of the committee contained a fair exposition of the unconstitutionality of the 25th section; and as there had been no opportunity for a discussion of the subject in the House, he wished the argument of the committee to be extensively disseminated. No man, Mr. H. said, was more attached to the Union of the States than himself; but he did not consider the proposition to repeal the section as any attack on the Union; on the contrary, being satisfied that the section was itself unconstitutional, he was in favor of its repeal, and wished the argument of the committee printed for the information of the people.

Mr. CHILTON moved that the motion be laid on the table; but withdrew his motion at the request of several gentlemen.

Mr. DODDRIDGE, of Virginia, remarked, that much had been said, and many allusions had been made to an expression of his on a former occasion, that he considered the proposition to repeal the 25th section of the judiciary act as equivalent to a motion to dissolve the Union. Such, said Mr. D., is my opinion. It is my opinion, and I hope no angry feelings will be produced by my avowing it. Although I entertain this opinion, I was willing to discuss the bill, and it was no fault of mine that it was not discussed. I did not make the motion to lay the bill on the table, which precluded debate. Mr. D. said he had been spoken to by several gentlemen to support the printing of an additional number of the report, &c.; and although the report and counter report had been very generally published in the newspapers, he was willing to order the extra number; indeed, a larger number than that proposed. The reports were important; and, in the pamphlet form, gentlemen to whom they were sent, would be more likely to preserve them for their own, and the perusal of others. He, therefore, moved to amend the motion, so as print six thousand instead of three thousand additional copies.

Mr. GORDON, of Virginia, said, the remark of his colleague, as to the character of the bill, he must consider as a direct reflection on the committee which reported it. And, as one of those who concurred in the report, he must protest against that reflection. When a committee of the House had given to a subject the calmest and maturest investigation, and a motion is made to print their report, a gentleman gets up, and, in a tone of alarm, denounces the proposition as tantamount to a motion to repeal the Union; and this, too, from a gentleman whose legal character, and whose standing in the House, gave his opinions some control over the opinions of others. To an opinion so erroneous, and a course so extraordinary,



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*Minister to Russia.*

[H. OF R.]

Mr. G. could not submit in silence. In regard to the Union of these States, Mr. G. said he viewed it as the palladium of our hopes, and of the liberties of mankind; and he felt as strong an attachment to it as his colleague could possibly feel, although he might say less than him about it. As to the constitutionality of the 25th section of the judiciary act, has it not, Mr. G. asked, been mooted frequently? It was neither a new question, nor an alarming one. Could it be new, especially to a Virginia lawyer? Does the gentleman not know that the Virginia judiciary, with Roane at its head, had solemnly denied the constitutionality of that section? Did he not also know that many of the leading men of the State, including John Taylor, of Caroline, had contended that the section was unconstitutional? Did not Georgia, the other day, by her Legislature, deny the constitutionality of the act, and order her Executive, with all her powers, to repel its enforcement on her? Had not Pennsylvania, too, declared it unconstitutional, and resisted its execution? Why, then, this tone of alarm and terror? Why the call for the previous question, to suppress debate on the bill? Why shun its discussion? Mr. G. did not himself desire to debate it. He might not even have deemed this a proper time for disturbing the question; but he saw nothing in the proposition to be alarmed at. On the contrary, I declare to God, exclaimed Mr. G., I believe nothing would tend so much to compose the present agitation of the country, and allay the prevailing excitement, as the repeal of that portion of the judiciary act. Mr. G. alluded to the case of Cohens, by which the State of Virginia was made a party before the Supreme Court, and had employed distinguished counsel to argue the unconstitutionality of the authority claimed by the court; and was proceeding to make some further remarks, but checked himself, as he did not wish, *he said*, to go into the merits of the question.

Mr. DODDRIDGE observed that his colleague's remarks about the previous question, and about the suppression of debate on the bill, did not apply to him. He had not moved the previous question, or made any other motion which would preclude debate; and, as for what his colleague thought of his opinions, he did not care a tittle—not a tittle. Mr. D. said he had not been averse to debating the bill; but, as it was not debated, he was in favor of giving the greatest possible publicity to the arguments, *pro* and *con*, of the committee, and had, therefore, moved to increase the number of additional copies to six thousand.

Here the expiration of the hour put an end to the subject for this day.

#### MINISTER TO RUSSIA.

The House then took up the general appropriation bill; the question being on the motion of Mr. STANBERRY, to strike from the bill the appropriation for a salary to the minister to Russia.

Mr. BURGESS continued his remarks, commenced on Thursday last, and occupied an hour and a half in their conclusion. [They are inserted in connexion with the first part of his remarks.] When he concluded,

Mr. ALEXANDER obtained the floor, but yielded it to

Mr. CAMBRELENG, who said, I thank my friend from Virginia for his courtesy in yielding me the floor, for there is nothing so disagreeable, Mr. Speaker, as slumbering on these little animosities. I desire no lamp to barb my arrows, or polish my weapons—no nightly errands of the imagination to the commonplace reservoir of antiquity—no pleader's brief to prompt me in replying to the gentleman from Rhode Island. I congratulate him, sir, that, after three weeks' hard study—two days' severe and laborious rhetoric, and with the fatiguing aid of copious notes, he has, at last, discharged his fire. I congratulate the House that its alarming anticipations are over. More than

three weeks since, sir, the belligerent heralds abroad triumphantly announced to the world that the holy cause of calumny would be vindicated here, and that a dreadful vengeance awaited all who had dared to rebuke it. We were threatened, sir, with volcanic thunders—with red lightnings and streams of liquid fire. We have witnessed this long anticipated eruption, sir—the danger is past—the planets still roll on calmly in their eternal circles; even the erratic stranger on our horizon pursues unmoved his fiery course—heaven be praised, sir, we are still alive, and breathe.

As the storm is over, sir, allow me, in replying to the gentleman from Rhode Island, to notice briefly two points of a graver character. It is the unquestionable right and duty of every member of this House to scrutinize most severely every appropriation, and to examine most thoroughly every principle and measure of this administration. But, sir, gentlemen must pardon me for widely discriminating between a dignified contest for principle, and a mere personal war against individuals occupying distinguished public stations. I cannot persuade myself to believe that there is any party in this House, or in this country, who would seriously desire to establish the extraordinary policy and principles involved in the motion under consideration. I cannot believe that there is any gentleman in this House, or out of it, who has a just regard for his country's honor, who would deny to any American minister abroad the privilege of temporary absence from his diplomatic station, when his health or any other sufficient cause should render it necessary. But surely, sir, no gentleman can seriously dispute the right of a minister to leave the court to which he may have been assigned, when he acts, as in the case of Mr. Randolph, under the express authority of the Executive. I may, perhaps, carry my notions of national dignity a little too far, sir; but I should contend that, with or without such authority, such a discretion was absolutely necessary. I should lament, indeed, sir, if, by adopting narrow views of public policy, we should deny to our ministers abroad a courtesy which is demanded from us by considerations of honor and humanity. I trust that, however violent may be the character of our internal wars, the wildest frenzy of party excitement will never drive us into measures so humiliating to our ministers, degrading to our diplomatic character, and so effectually calculated to lessen the dignity of our country in the eyes of the world. But, sir, I shall not waste the time of the House by gravely arguing any such questions. This is not a contest for principles of any kind. The sanguinary current of this debate manifests too clearly its aim and character. Gentlemen may shift and evade the question as they may, it is a mere personal war against the distinguished individual who happens to occupy the station in question. The war is out of place, and altogether too late. Where was all this affectation of a pious regard for the public interest—where the sleepless vigilance of the opposition, when the President nominated the gentleman from Virginia as our minister to Russia? Where was all the infuriate zeal of party in the Senate? Why was the unrelenting spirit of revenge so calm, when not a voice was heard for rejecting this nomination? Was it because the gentleman from Virginia was then here to defend himself? And is this war now commenced because the Atlantic rolls between him and his adversaries? An opposition to his nomination at that time in the Senate would have been at least more appropriate and respectable than a contemptible attack upon a minister's salary, as a mere apology for calumniating the individual, and to gratify the most pusillanimous of our passions. But the war, sir, is in perfect keeping with its origin—it is a war of revenge—all weapons are deemed honorable, and a relentless animosity subdues every impulse of generosity or magnanimity.

I regret, sir, that the gentleman from Rhode Island

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should have made any allusion, in a debate of this character, to the memory of the late representative from Illinois. It was roughly obtruded upon us, sir, and I must be pardoned for noticing the subject in any manner. I little thought there was any friend of the late administration bold enough to revive our recollections of that gentleman's melancholy fate. I concur entirely with the gentleman from Rhode Island in his just tribute to his memory. He was among the most promising members of this House—a gentleman of talents and ambition—beloved by his friends, and admired by his constituents. In an evil hour he was tempted to violate his obligations to the State he represented, and in this House gave the vote of that State to the late President of the United States. He appealed to the tribunal he had offended, but a judgment was rendered against him. From that hour his hopes withered, his spirits drooped—his ambition was destroyed—he fell a much regretted victim to the late Presidential election. It became our duty, in the progress of our investigations in the Committee on Retrenchment, to probe the mysteries of the various departments of Government, and to disclose many glaring abuses of the public confidence. We discovered, sir, that a practice had grown up of disbursing moneys without appropriations—of liquidating accounts without law—in short, that each department had its little legislation of its own, without the authority, co-operation, or knowledge of Congress. Among the disclosures, there was one of an extraordinary character. It was discovered that, while the late administration had not the courage to confer on the representative of Illinois an office corresponding to his talents, and to the station he had occupied in our public councils—while they dared not, for a manifest cause, send his name, coupled with an office, to the Senate of the United States, they had resorted to the miserable subterfuge of giving that gentleman a secret and poor employment, under a vain hope that this singular transaction would remain forever wrapt in diplomatic mystery. The committee ascertained, to their surprise, and to the astonishment of the whole nation, that a fictitious mission to Cuba had been created, and that the late representative from Illinois had received his outfit from the secret service fund. I had not supposed, sir, that there was one friend of the late administration so indiscreet or daring as to remind the nation of this dark and mysterious affair. We have much reason, sir, to congratulate our country on the able and successful services of the present administration; but it most especially deserves the approbation of all for the frankness of its proceedings, its faithful adherence to our laws, and its courage and firmness in encountering and arresting every violation of the constitution. We have none of these abuses now, sir—no disbursement of the public money without the express sanction of law—no Executive legislation—no diplomatic mystery.

The course of this debate, Mr. Speaker, has made it my duty to notice some lighter matters. I have no desire, sir, to appear in this House in the character of a satirist, with my bow and quiver. Mine is the humble ambition to be classed with its useful members. In my view, the monuments constructed here by reason and judgment, are far more solid and durable than all the splendid but more perishable draperies of the imagination. But, whatever may be our taste or ambition, sir, whoever appears here, must be armed at all points, and must expect to encounter antagonists of every character. We are sometimes called upon to engage in a gentlemanly tournament with men of principle, honor, and talent; but, sir, in such a generous war, however keen our weapons, we leave no stain upon the blade. If, in a sudden impulse, or by an ungraceful thrust, we should wound our generous adversary, it is not only a duty, but a pleasure, to make the "*uncade honorez-le*." But if, Mr. Speaker, we are sometimes driven to the hard necessity of encountering adver-

saries of another character—if, in defending our friends, we are obliged to turn indignantly upon some paltry trader in low calumnies with a "lash of scorpions," or crush the vampire with a storm of invective—the apology is then, sir, not due to the offender, but to ourselves.

In our skirmishes and excursive wars here, sir, we cannot choose our adversary, nor in our sports select our game. The gentleman from Rhode Island appears to have been particularly fortunate as a sportsman. He has winged "imperial eagles, towering falcons, cock sparrows, and mousing owls"—ay, and old mousers, too, sir. But, Mr. Speaker, we may sometimes start other game—we may, in our skirmishes here, encounter some magnanimous adversary—brave and generous as the valiant hound—the leader of the pack—one who yelps and pursues most loudly and fiercely when the game is—at a distance. Were it near, sir—were the noble stag once to turn his meteor eye upon his hunters—with his magnificent antlers erect and threatening—"Tray, Blanch, and Sweetheart," would whine and skulk—and even the leader of the pack, ay, sir, even old Jowler would growl and sneak away.

We may be obliged also to contend with some of a more respectable family; though, perhaps, not more distinguished for courage or magnanimity. We may meet with some gentlemen of peculiar patriotism and refined political morality. He may have been, as a partisan, notorious for his vituperations against Jefferson and Madison—he may be distinguished as the calumniator of every prominent member of a party uniformly devoted to republican principles of Government, and of every man in any manner distinguished for his civil or military services. Our antagonist may be some partisan patriot, notorious for his hostility to our constitution in 1793—to our laws in 1807—to our country in the war of 1812. Perhaps, sir, he may be an outcast of some ancient and forlorn hope, of some party publicly accused, upon high and distinguished authority, of plotting treason against the Union in our late war. And, sir, it may be this peculiar misfortune of such an adversary—while his honorable associates repel the charge with proud indignation—it may be his sad destiny to be lashed to the car of his accuser. All the dignity of the man may be sunk in the sycophancy of the parasite. He may not only crouch beneath the lash, but, like a poor slave, bend his head upon the footstool of his distinguished accuser, hug his chains, and breathe out vows of eternal allegiance and fidelity.

The gentleman from Rhode Island has witnessed an interesting age, and has chronicled many revolutions in the political world. He may yet live to see some such poor wreck of humanity appearing again in public life—regenerated, recoined, and restamped—fresh from the great national republican mint. But, sir, whenever and wherever he may appear, he will be, as he has always has been, the unrelenting foe of every man at all respected for moral dignity, or distinguished by patriotism. To such an antagonist, the past can afford no consolation—the future no hope—he who looks back on the wreck of his political fortunes and his withered hopes, with the bitter glance of despair, can look forward only with a malignant eye—flushed with revenge. The history of his country affords him no consolation, save in the recollection of that memorable hour of our national calamities—the hour of his triumph and the patriot's despair—when with a treasonable joy he saw the flashes of our burning villages in the North—the fires of Hampton and H. v. de Grace—the blaze of our capitol—when with treacherous exultation he welcomed the arrival of an invading and veteran army on our Southern frontier.

The hopeless politician turns back with unnatural delight to that awful crisis in our national affairs, when every American forgot the little animosities of party, and yielded to the sublimer impulses of patriotism; when our bark was amidst the breakers, and the sea run mountains

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high; when some of the crew mutinied, and all hope seemed to be lost! The treacherous mutineer, sir, the unhappy victim of despair and revenge, finds sweet consolation in traducing that patriotic and gallant crew, who stood by the helm, and breasted and weathered the storm. But, sir, the sullen and despairing alien to his country's honor enjoys his sublimer revenge in bitterly calumniating the venerable and gallant chief who ruled in the storm of battle, and redeemed our lost hopes—who extinguished these unhallowed fires upon our land, and washed out the dishonorable stains upon our soil, with the blood of its invaders. The gloomy and desponding victim of despair, brooding over his withered hopes, can never pardon our Chief Magistrate for destroying all his unholy and ambitious plans, by closing the calamitous scenes of war in a blaze of victory.

If it were not, Mr. Speaker, too great an indignity to the honorable members of this House, I might concur with the gentleman from Rhode Island, in supposing it possible that we may encounter on this floor some member, whose only title to respect would be the certificate we all enjoy of the confidence of our constituents. We might, perhaps, be obliged to engage with some gentleman remarkable for his modesty, self-respect, and gentlemanly refinement. Perchance, some disciplined orator, who may rise in this House, with all the pomp and magnificence of a Demosthenes—with his little library scattered around him—threatening us with a speech of admirable dimensions. But, with all this parade, he may yet, sir, disappoint himself, and relieve the apprehensions of his audience, by sinking, exhausted, and broken down, under the excessive weight of an enormous exordium. To young modesty and talent this would be a calamity; but, sir, it is nothing to your veteran rhetorician. Like the amphibious and skilful navigators of the pearl fishery, though they may sink in one latitude, they rise in another, full freighted with all the treasures of the deep. So, sir, with your veteran speech-maker—this ill-fated exordium may, after some four, five, or six weeks' severe labor, appear in all the amplitude of a pamphlet, corrected and revised by the author. And, sir, it might happen that this same pamphlet may contain a deliberate, calumnious, and malicious libel upon some prominent member of this House—perhaps, my honorable and distinguished friend from South Carolina. And, sir, we might find a gentleman of such refined delicacy, and of so nice a sense of manly honor, as to convey to my honorable friend a copy of this same pamphlet, with its malicious libel, through the medium of the post office, with the most respectful compliments of the author! Now, sir, I should regret to imagine it possible that this dignified assembly should ever be disgraced by the presence of any such refined calumniator. Should it, however, ever happen, I am sure the gentleman from Rhode Island would lament with me to see my honorable friend from South Carolina driven to the hard necessity of grappling with the miserable author of such an exordium, pamphlet, and calumny.

But, Mr. Speaker, our most painful duty in these our parliamentary wars is to encounter age. Not, sir, the venerable sage who appears among us to instruct us with his counsels and his experience; to improve our manners, by setting us a gentle and bland example of parliamentary courtesy; to win our esteem and to command our respect and admiration, by a deportment majestic and dignified. No, sir; age, in that venerated form, can never be encountered but with feelings of profound reverence and respect—the heart leaps to do it homage. But, sir, it may be our humiliating duty to encounter it in another and a less dignified form. It may appear among us, sir, with its certificate stamped upon its forehead, of forty years' hard service in the Old Bailey—it may triumphantly unveil its diploma from the renowned college of St. Giles—it may rush upon us, reckless of every rule of propriety,

every principle of honor, and all the graces of gentlemanly decorum—it may run wild in this House, flourishing its scalping knife, hurling its tomahawk, and scattering its poisoned arrows with malignant and savage ferocity—it may shock our modesty, by comparing itself to the noble bird of Jove—it may insult the patriotism of the House, by associating itself with the venerated form of the immortal Washington—nay, sir, it may violate all decency and morality, and blaspheme our religion; by impiously assuming the holy and sublime mantle of the prophet Elijah! I trust, sir, that age, in this degenerate form, has never appeared among us—I hope no such original will ever disgrace this House—I trust it is “but fancy's sketch.” Should, however, such a calamity ever befall us, I am sure the gentleman from Rhode Island will concur with me that it would be sacrilege—it would be an insult to venerable age, to reverence or to spare “the chartered libertine.”

Mr. Speaker, my task is finished. I engaged in this debate from a hard necessity; but, sir, it is a duty I shall never shrink from, when called upon to discharge the obligations of friendship. I have only to regret the absence of the gentlemen calumniated, who would have defended themselves with infinitely greater ability. I now resign, sir, most cheerfully resign, all the honors of the ring, all the vulgar triumphs of the fancy, to those who habitually indulge that exalted ambition. When humble ambition, sir, is driven by a hard but imperious necessity to “quit the even tenor of its way,” to grapple with a Cribb or a Molineux, the severity of the punishment should correspond to the enormity of the sacrifice. In rebuking calumny, sir, to the best of my poor ability, I have not ruffled a feather of the imperial eagle, “towering in his pride of place.” No, sir; withered be the arm that would harm the bold bird that sports and revels in the purple cloud of war, and lights, with a triumphant wing, on the standard of victory. No, sir; the arrow was aimed at an ill-omened follower of the camp—at the sable bird that hovers over and lights upon the field, when the battle is lost and won, and claws in the graves of the brave for its dreadful food. The vulture winged, the true sportsman pursues such game no further; he leaves his victim to rot upon the plain, to the kind care of its dusky mourners, with none to chaunt its requiem but myriads of cawing crows and croaking ravens.

Mr. ALEXANDER then rose to address the House, but gave way for a motion to adjourn; and then the House adjourned.

TUESDAY, FEBRUARY 8.

Mr. BOULDIN presented the petition of inhabitants of the county of Buckingham, in the State of Virginia, praying that the aid of the General Government may be extended to the American Colonization Society, either by a grant of money, or by employing a part of the naval force in transmitting emigrants to the colony in Africa. Referred.

MINISTER TO RUSSIA.

The House having resumed the consideration of Mr. STANBERRY's motion to strike from the general appropriation bill the appropriation for the salary of the minister to Russia,

Mr. ALEXANDER rose, and said he had but a few remarks to submit upon the subject now before the House. He could wish that he had none; but to be silent at this time; would be criminal indeed. Much which has been brought into this discussion, he should pass over as unworthy of notice.

He regretted that the gentleman from Rhode Island, [Mr. BURGESS], after having commenced and continued a most virulent attack upon the administration, and the gentleman who had been appointed minister to Russia, should

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have absented himself this day from the House, without waiting to see whether any thing could be said in their defence. If, as stated by him, there has been a departure from the original question under consideration, Mr. A. knew of no one more chargeable for that departure than the honorable gentleman himself.

It was not without some degree of mortification, Mr. A. confessed, that he had witnessed the course which this debate had taken, and been prosecuted on the part of certain gentlemen. He did not mean to follow them in that tirade of coarse abuse, vilification, and ridicule, which they had thought proper to indulge in, leaving them to enjoy the full benefit of such pantomimes as have been exhibited upon the boards; but he should treat the subject in general as it deserved, seriously, and place it upon that ground where it ought properly to rest. The gentleman from Rhode Island [Mr. B.] has furnished me with admonitory counsel upon this subject, of which I shall claim advantage, when he said, in allusion to another gentleman in this debate, [Mr. CAMBRELEN,] that it was the place, and not the man, which gave character to the sentiments uttered upon this floor, and which required them to be noticed. But for this consideration, the gentleman should have passed by me "as the idle wind which I respect not."

Mr. A. could but lament that the gentleman should have availed himself of this opportunity to give vent to that "testy humor" for which he is so remarkable, at an age when he may be said to be looking to another world, "where the wicked cease from trouble, and the weary are at rest;" and I concur with my colleague, [Mr. CORE,] that it would have been far more becoming, had he observed that christian virtue, in rather forgiving than reviling the frailties and infirmities of a fellow-mortal. It is true, sir, the gentleman has disclaimed saying any thing injurious to the reputation of the minister abroad, who has been made the subject of his sarcasm; for he well knew that was beyond the reach of calumny, or the venom of a vindictive and malignant spirit; while, at the same time, he has portrayed him in such colors, that none can mistake—applied to him the most opprobrious terms which a distempered imagination could suggest, calculated to affect his standing at home and abroad, and to impair the confidence of the people in the power that appointed him. What, sir, is a picture, a painting, a caricature, less a libel or slander, in the eye of the law, because it happens not to be printed or spoken? And does the gentleman mean to purge himself of the contempt, in his legislative capacity, by saying there was no evil intent expressed? I shall not admit the plea, but hold him responsible to the law, as it is written; for, sir, permit me here to say, that there is nothing which tends so much to injure the character of our country with foreign nations, as the scurrilous publications and vile aspersions with which the public presses teem, unless it be persons high in official stations at home and abroad, who malign and disparage the Chief Magistrate of the Union. The design and effect of the philippic which we have heard, cannot be misunderstood. It is intended to destroy, if possible, the usefulness of the minister, in accomplishing the objects of his mission. Else why these extracts, taken from the speeches said to have been delivered by him some years since, and read by the gentleman from Rhode Island, [Mr. B.] unless with the view to prejudice him and the administration at the court to which he has been sent? Even admitting all that he is represented as saying respecting the Russian dynasty, it is a matter of history known to the public, and about which he had a right to speak.

The gentleman has been pleased to allude to the reception and conduct of the minister at the court of St. Petersburg, in such a way as to have associated himself with the miserable slangs and vile slanders fabricated and circulated by certain presses for party and political purposes,

which I take upon myself here to say, from authority not to be questioned, are without any foundation in truth to sustain them. His reception was such as became the character of a gentleman, and the dignity of the Government which he represented, and, upon taking leave, the best feeling and understanding subsisted between him and the official minister.

Mildred, sir, in the hands of an ingenious and dexterous debater, when argument fails, is, we all know, one of the most powerful weapons that can be used for popular effect; and the gentleman understands perfectly well the part that he is playing, if he be content to suffer in that estimation which this House and the nation must entertain for his representative character. I can congratulate the gentleman upon the aid which he has received in other quarters of the House, from those who may well deserve to rank as his noble comrades in this unholy crusade against fair fame and character.

Gentlemen have said much of constructive journeys and constructive residences, and so did Tristram Shandy say much of noses of "radical heat and radical moisture," which may be as well understood by some one in this debate; and there is just about the same difference between the case in point, and what they would have one believe is a constructive journey, as there was in point of size between the nose of Tristram and the famous Slawkenbergier. Gentlemen seem rather sensitive upon this subject—all is not well with them, I fear. It may be, should the bill which has passed this House regulating the mileage of members of Congress fail to become a law, they will have an account to render nearer home of a constructive journey—a journey performed upon the periphery of a circle, instead of the diagonal of a parallelogram; and, like the bird when alarmed for the safety of its own brood, seek to decoy the enemy in pursuit of other game. Corporal Trim, sir, after taking his position on the floor, with his body squared well to the front, according to the line of science, at an angle of eighty-five and a half degrees, always began reading, "with the most persuasive angle of incidence," his sermon to my uncle Toby, by first saying, "for we trust we have a good conscience."

There is no meeting gentlemen upon a theatre of this sort, unless one descends to an arena, and do there contend with men—

*"Born to vex a State,*

*With wrangling talents, formed for foul debate."*

Mr. A. said he had no asperity of feeling; no antipathies to indulge in against any one, either in this House or out of it. He did not wish to war against the living, much less the dead, the aged, or the infirm! But he hoped he should be pardoned for attempting to rescue the reputation of an absent gentleman from the fangs as it were of vipers, who were as "hungry as death, and unrelenting as the grave."

After the explanation that was given by my colleague, [Mr. ARDEN,] who entered early upon this debate, I had hoped that the question raised by the mover would have been decided at once by the House. If he supposed in this way to assail the reputation of the minister, or through him, under color of friendship, the administration, which must share in some degree the responsibility of the mission, he has wholly failed of his purpose. And after the manifestation which the gentleman gave on a former occasion of the kind of friendship he bore to it, none will envy him a distinction which he may claim exclusively his own. What, sir, are we to be told, and the nation, too, and that upon the authority of the President of the United States, that we have no minister to the court of St. Petersburg, when it is well known, that a gentleman was regularly nominated at the last session of Congress, and confirmed, if not unanimously, without even a division by the Senate? The gentleman from Georgia [Mr. WALES] has well distinguished between the moral and political

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effect which such a declaration going forth to the public should have, when accompanied with the peculiar circumstances of the case in question.

But, says the gentleman from Rhode Island, [Mr. B.] it is the illegality of the measure to which we object. And when was he ever known to raise his voice against the illegality or unconstitutionality of any measure before? I hold it not proper in this House now to disapprove the mission as an act of original creation, by withholding the appropriation necessary to carry it into execution. The objection, if valid at all, should have been urged at the time of the appointment, and not when a moral obligation has arisen on the part of this House to carry into effect the Executive will. In this way, you may control and counteract the most important function of the Executive branch, which was intended to be separate and distinct from the Legislative Department. I shall not pretend to say that it would not be the duty of this House to interpose its authority, and prevent an improper or mischievous mission, such as the Panama; but then the exertion of power should go directly to the mission itself, and not to any personal objection which we may have to the minister; that is a matter belonging exclusively to the Executive will. The gentleman has also failed in his analogy, by comparing this with the case of Mr. Cook, who was appointed by the late administration, at a time when he was physically and mentally unable to undertake any business, to go to Cuba—for what, nobody knew—merely touched there—pocketed a sum of the secret-service money of the Government—to what amount, I believe, was never ascertained—went home, and died.

The gentleman from Rhode Island [Mr. BUNCE] has, however, wisely discovered that this mission is contrary to the laws of nations, and, therefore, void; and how does he prove it? By attempting to show, with a kind of specious reasoning, that the minister has divested himself of his rights and privileges, in taking up his residence for a time in a country beyond the control of the Government to which he has been sent, when there is not a single authority in the whole code, respecting the character of ministers, going to sustain the position. The argument which has been presented to the House, might with much more propriety have been addressed to the Emperor of Russia, to prevent his accrediting the minister, if there be any force in it. But, unfortunately for the gentleman, the Emperor disagrees with him in his view of the law of nations, and has not only received and accredited the minister, but permitted him to retire to another kingdom and carry on his negotiation. The same rights, immunities, and independence, which belong to the character of ministers travelling to and from one court to another, through the dominions of different sovereigns, still follow him; and it will be time enough, when these are violated, to consider the question which has been raised in this debate. If, however, the law of nations should prove inadequate for this purpose, the minister, with the aid of the municipal authorities, wherever he may be, will be able to take care of himself; and, if not, I can assure the gentleman, he will never ask protection at his hands; for that would be, as the law has it, *committere agnum lupo*.

The gentleman is equally unfortunate in the authorities adduced to prove that the commission of the minister is at an end. The object for which he was sent abroad has not been accomplished; neither has he been recalled, nor sent home, or any where else, except with the permission of his own Government, the court of Russia, and his own free will. The term elsewhere, as used, and upon which the gentleman mainly relies his argument, can only mean when sent to some other court, by order of his Government, for a different purpose. The events then not happening, which terminate his mission by the law of nations, he may be said still to be invested with all the rights and immunities which originally belonged to him.

Mr. A. desired to know how came the diplomatic term in use, which says, that such a person is appointed minister near the court of Russia, of England, or the United States, if it does not imply an occasional absence, or residence in a foreign territory, or not immediately at the seat of Government. Would the British minister be less so, if he were accredited by this Government, and resided in Canada or Texas, than he is now at the City of Washington? I apprehend not. The mere circumstances of residence, I therefore consider as a matter of arrangement between the respective sovereigns and their ministers as to the most convenient and best mode of conducting the negotiation. There is so little in this point, that I shall not bestow upon it any further consideration.

The President has fairly and properly stated the subject to this House and the nation; he has informed us that our relations with Russia are upon the most friendly and stable foundation, and not likely to be disturbed; that our minister, shortly after his arrival there, was compelled, in consequence of the bad state of his health, to seek a more genial climate, with a view to its re-establishment, intimating, at the same time, that there was no danger of our interests suffering in that quarter, as the necessary communication could be kept up through the secretary of legation, who was left there. Even this young man has not been permitted to escape the vituperation of the gentleman from Rhode Island, [Mr. BUNCE.] He has been represented as having nothing but youth and his surname to recommend him to public notice. I shall not pretend to speak of his merits, as they are better known to the representatives from Philadelphia, the place of his residence, who are more able to vindicate them than I am. I have, however, always understood that he is a young gentleman in good standing and most exemplary deportment. It is true, he has not had much knowledge or experience in the world; yet, with a few exceptions, it is generally the case of those most usually appointed. Since the gentleman has taken upon himself to draw a comparison between youth and old age, I hope to be pardoned, since he has espoused the last, for advocating the first, in the language of an illustrious individual on another occasion:

"Whether youth can be imputed to any man as a reproach, I will not assume the province of determining; but surely age may become justly contemptible, if the opportunities which it brings have passed away without improvement, and vice appears to prevail when the passions should have subsided. He who, after having seen the consequences of a thousand errors, continues still to vilify, and whose age has only added obstinacy to malignity, is surely the object of either abhorrence or contempt, and deserves not that his grey head should secure him from insults.

"Much more is he to be abhorred, who, as he has advanced in age, has receded from virtue, and becomes more wicked with less temptation; who prostitutes himself for a reward which he never can hope to enjoy, and spends the remains of his life in the ruin of his country."

But after all, said Mr. A., is this an affair of such moment as to justify the vindictive feeling which the gentleman has thought proper to bring into this debate? Is it not usual, during the absence of the minister, to entrust the business to a chargé, or even a secretary of legation, as I think was the case of our late minister, Mr. King, who, at the time of his appointment, it was well known, could not conduct a laborious and complicated negotiation, from the delicacy of his health, and was permitted to sojourn through England, with the hope of its recovery? Yet, sir, did any one ever think of denying to him a salary necessary for his support, and created by every moral consideration? Was not Mr. Barlow allowed to leave France and go into a foreign country for the benefit of his health, where he died? The same privilege has been enjoyed by our late minister, (Mr.



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Brown,) as stated by the honorable gentleman from New York, [Mr. CAMBRELENG;] and where then was this newborn zeal which has so suddenly sprung up on the part of certain gentlemen, in behalf of the people?—this resistance to the encroachments of power, which, for the first time, has ever shown itself in the gentleman from Rhode Island? [Mr. BURGESS.] It was as silent as the grave! But because it happens to be the distinguished gentleman, whom envy, malice, and detraction have sought in vain to destroy, and hailing as he does from Virginia, are these denunciations and "vials of wrath" poured out upon his devoted and unoffending head! They have been met by my colleagues, and the honorable gentleman from Georgia, [Mr. WAYNE,] in such a style and manner, that I shall not attempt to emulate them; and the assailants, scoffers, and deriders, have been thrown back, covered with shame and confusion.

As to what the gentleman has been pleased to allege as fraudulent diplomacy in the Secretary of State—machinations on the part of the administration, in attempting to bribe the State of Virginia, and the gentleman upon whom the mission was conferred, I shall say nothing further than to state that this House and the nation, knowing the person who makes the charge, and that it exists in his own imagination, unsupported by any evidence whatever, will put it down to its proper account.

Sir, said Mr. A., it is not the first time that I have witnessed an attempt in this House to injure the well-earned reputation of the gentleman abroad, when the distance of three thousand miles separated him from his assailant, and then, as now, with perhaps scarce a hope of being again able to return to his own native shores! Providence, however, was pleased to spare his life, and he met the attack, and has placed that matter where his honor and integrity rest perfectly secure. How it is on the other side, let the seal of Hermes disclose.

Now, sir, neither the distinguished gentleman, nor the State which claims him as a citizen, ever sought the honor which this appointment confers. Neither has ever been found bowing to the subserviency of Executive power, or trucking at the footstool of a foreign throne; and the insinuation which has been thrown out, is worthy only the character of the servile sycophant, who knows how to minister to the will of Executive patronage, and worship at the shrine of idolatry. Virginia owes allegiance to no administration, further than it may choose to respect the rights of the citizens, and the principles of the constitution. She stands towards this as she has done to all others, approving where she can, and condemning where she must. So long as it acts faithfully to the people and the constitution, she will give it a just and honest support. Often has she discarded her political favorites when they have departed from the faith, and received them back only when they have turned from the error of their ways.

How was this appointment made? It was given in consideration of the distinguished public services of the honorable gentleman who had retired to repose from the turmoils and strife of the political world, with no wish or expectation of being again called upon to mingle in them. At a time when he had performed, as he supposed, the last duty he owed to his fellow-citizens, those constituents whom the gentleman from Rhode Island [Mr. BURGESS] has so sneeringly alluded to, when he remarked that he had once heard him (Mr. Randolph) say in this House, "they were such as no man ever had before," and he [Mr. BURGESS] believed it. Yes, sir; I shall tell the gentleman they are such as he will never have the honor to serve. As I was about to say, when he had discharged the last act of his political life to his constituents, in the convention which recently revised their State constitution, where the powers of his mind, and his sagacity as a statesman, claimed for him a pre-eminent distinction among those with whom he was associated, was he required by

his country to enter upon this new and untried scene. And yet, sir, we are gravely asked where are the monuments of his genius, the fabrics of his workmanship, which entitle him to this distinction? As well might gentlemen ask Virginia for her jewels, and they would receive the same answer in reference to him that was given by the mother of the Gracchi. From the honorable manner in which the offer was made, his patriotism, yes, sir, his patriotism, did not permit him to decline a service so hazardous to himself personally, if he could be at all useful to his country; and with promptness, although Congress failed to provide him with the necessary outfit, did he repair upon his own resources to fulfil the expectations of his Government.

It was, sir, no Russian winter, so much to be apprehended to his constitution, which he had to meet, but a tropical sun, as fatal to his health at the period of his arrival, as if he had been landed at New Orleans on the banks of the Mississippi; and for this visitation of Providence, is he to be denied a compensation which never could have been a consideration with him for accepting the appointment? No one who knows him will ever believe that he would "sell the mighty space of his large honors, for so much trash as may be grasped thus."

But, sir, it is not necessary for me to stand here as his eulogist. His fame is written upon every page of his country's history, and is as lasting as his own native hills. Those gentlemen who preceded me in this debate, have done full justice to his merits, and I could only follow in their wake, without the hope of adding one wreath to the chaplet that decorates his brow. I shall, however, say, amidst all the billingsgate abuse, vile contumely, and "back wounding calumny, which strikes the whitest virtue," he stands like the aged oak of the forest, unscathed, glorying in his height, conscious of a well-spent life in his country's cause, and knowing that he still lives in the hearts and affections of his fellow-citizens, whom he has served faithfully, honestly, and independently, for the last thirty years, and none, the vilest recreant, dare enter there to rob him of his good name.

Mr. PEARCE, of Rhode Island, next rose. In the few remarks which I intend to submit to the House, said Mr. P., it will not be my object to consider the question as one confined to Mr. Randolph, or any other individual, but to all persons whose cases may come within certain rules which the Government of the United States ought to establish and enforce. This debate would have been curtailed if the gentlemen who had preceded me had confined their remarks to the real subject of dispute. Mr. Van Buren is not now on trial, nor is the President of the United States, but the question is one which will admit of discussion under any administration; if not now settled, may be hereafter presented, and may again be the fruitful source of contention and discord. Of all species of legislation, that to my mind is the most odious which relates to individuals, or the particular cases of individuals. Being unwilling also to travel out of the road, and anxious to bring this debate to a close, I will also confine myself to the only information which we have received, and on which we can well rely, so far as the question presented for our consideration is involved. What is that information, and from what source does it come? From the President of the United States in his first communication made to Congress this session. This comes to us in an official form, under the impress of our Executive; it is all that we have received officially, and all that we can with propriety refer to. Let us refer to this information. The President of the United States, after informing us that our relations with Russia are of the most stable character, and respect for that empire, and confidence in its friendship towards the United States, have been so long entertained on our part, and so carefully cherished by the present Emperor and his illustrious predecessor, as to have

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become incorporated with the public sentiment of the United States—no means (says he) will be left unemployed, on my part, to promote these salutary feelings, and those improvements of which the commercial intercourse between the two countries is susceptible. “I sincerely regret to inform you, that our minister lately commissioned to that court, on whose distinguished talents and great experience in public affairs I place great reliance, has been compelled, by extreme indisposition, to exercise a privilege, which, in consideration of the extent to which his constitution had been impaired in the public service, was committed to his discretion, of leaving temporarily his post, for the advantage of a more genial climate.”

“If, as it is to be hoped, the improvement of his health should be such as to justify him in doing so, he will repair to St. Petersburg, and resume the discharge of his official duties. I have received the most satisfactory assurance, that, in the mean time, the public interests, in that quarter, will be preserved from prejudice, by the intercourse which he will continue, through the secretary of legation, with the Russian cabinet.”

I have found it necessary to quote the language of the President, because, as already stated, it is all the information communicated officially to us, relative to the mission to Russia, and all upon which I shall rely in justification of the remarks to be made.

The House will indulge me, Mr. Speaker, while I attempt to make an analysis of this information. So important is it to this country to promote the salutary feelings which have heretofore subsisted between the Russian empire and the United States, no means will be left unemployed to accomplish that object. To effect this object, so important in the estimation of the President, not only the greatest talents, but the greatest experience which the country can afford, are to be employed. So necessary was it to employ such talents and experience, that to command them, a privilege was committed to the discretion of Mr. Randolph, of leaving the court of Russia, whenever, in his opinion, his health required him to exercise this privilege. We have no minister now at the court of Russia, nor have, but for a short period, had one, since this mission was instituted; there is no one now discharging the duties of a minister, because Mr. Randolph, in the event of the restoration of his health, is to resume his duties, in the event of a contingency, which may never happen, more especially as he is made the judge to decide whether it will, and when it does. The secretary of legation is the only representative we now have, by the President's own showing, at the court of the greatest empire in the world, when the President, last May, thought it expedient to employ the best talents and the greatest experience in the country to represent us there; if this was necessary then, subsequent events in Europe, referred to by many gentlemen in this debate, have rendered it obviously necessary at this time.

I have now, Mr. Speaker, presented fairly and candidly to the House my view of the only information, in regard to this mission, we can act on, communicated to us by the President of the United States. It presents to us, I may be permitted to say, an extraordinary and unusual state of things; and, before I take my seat, I shall show there is no precedent for it in the history of our Government. In the first place, have we a minister at the court of Russia? In the second place, have we such a minister, or one under such circumstances as to require us to make this appropriation? And, further, have we, as the representatives of the people, and holding the purse-strings of the nation, a right to express our opinions of the President's conduct, in regard to this mission, and the conduct of the minister he has sent to Russia? If we have a minister at the court of Russia, he must have been appointed and commissioned pursuant to the constitution and laws of the United States. Any man sent abroad, contrary to the

constitution or laws of the United States, although he may be denominated a minister, and accredited as such at a foreign court, is not and cannot by us be recognised as such. Does the appointing power rest exclusively with the President of the United States? Let the constitution of the United States settle this question: “The President of the United States shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, and other public ministers.” The power to nominate is vested exclusively in the President, but no appointment can be made without the advice and consent of the Senate; and it is the province of the Senate to act upon every thing appertaining to the nomination before the appointment is complete. The minister must be commissioned by the President, according to the ratification of his nomination. Suppose Mr. Randolph, nominated by the President, and, by and with the advice and consent of the Senate, appointed minister to the court of St. Petersburg, had been, in conformity to a previous arrangement between him and the President, commissioned minister plenipotentiary to the court of Stockholm. Is there a man in this House who would say that we ought to make an appropriation for his salary? I presume not. He would be illegally commissioned, would not be our minister at Sweden, and could not be the minister of the United States at the court of Russia. What is the present case? Mr. Randolph is nominated by the President minister to the court of Russia, with the previous understanding between him and the President that he should have the privilege committed to his discretion, of residing in England, or any other part of Europe, whenever he should think proper to exercise that privilege, and for an unlimited period of time. This agreement, and this discretionary exercise of privilege, is unknown to the Senate, with whose advice and consent the appointment was made, and without which it could not have been made. To me, Mr. Speaker, the whole proceedings appear to have been irregular, illegal, unprecedented, and the whole transaction void from the beginning; that we consequently have no minister, and, until one is appointed, it is unnecessary to make any appropriation for his salary; and if he has received an outfit, he has received what, by law, he was not entitled to. Suppose this nomination had been sent to the Senate with all the facts disclosed, that the President has since communicated to us in relation to it—this discretionary power to exercise the privilege committed to him of residing in England—is there a political friend or foe in that body that would or could have voted for it? No, sir, not one; and I contend that as to such appointments the Senate is a co-ordinate branch.

The next consideration, said Mr. P., is our right to withhold the appropriation required, if we are dissatisfied with the course adopted by the President and his minister. If we cannot express our dissatisfaction in this way, I know of none in which it can be done. If we willingly make the appropriation, with all the information which has been given us, we sanction the whole proceedings; and what has been done will continue to be done, by this and all our future Presidents, so often as circumstances shall require them to adopt the precedent which will be established. Sir, we have some knowledge of our relative concerns with Russia, and can judge whether, at this time, we can be as well represented at that court by a secretary of legation as by a minister plenipotentiary, and on this subject ought to express our opinions. We have a right to say that our concerns with Russia are, at this time, such as to require a resident minister; and if the President thinks they can be as well attended to by a minister residing in England, we may so far differ as to warrant us in withholding the appropriation.

But, Mr. Speaker, so far as Mr. Randolph's salary is connected with this question, and the argument used is founded on the necessity of an appropriation to pay his

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salary, we can derive some light from an examination of the laws of the United States, which do not contemplate a yearly salary when a year's service has not been rendered.

By the law on this subject, we find that the minister shall be paid at the rate of nine thousand dollars per year for his services; the *chargé d'affaires* shall be paid at the rate of four thousand five hundred dollars per year; the secretary of legation shall be paid at the rate of two thousand dollars a year. Sir, the words "at the rate of" are repeated six or eight times in the first section of the act regulating the pay of ministers abroad, necessarily excluding the idea of the payment of a yearly salary, when a year's service has not been rendered. By adopting the amendment as it now stands, we are relieved from any responsibility on this subject; we leave the administration free to act, (giving them an appropriation of nine thousand dollars,) either in giving Mr. Randolph a constructive residence at the court of St. Petersburg, the whole time, in fact, in England, or in filling his place by the appointment of another minister. Suppose, sir, the President should think Mr. Randolph's residence in England is, constructively, a residence in Russia, he will have at his command the money to pay him; but, as to the correctness of such a proceeding, others must judge. If, on the other hand, he should be of the opinion that he has not been a resident there the whole time since he left this country, under his supervision, he can be *pro rata* paid. The discussion which has already taken place will show the opinions of some of us on this subject. If Mr. Randolph's opinions in another case could be used in this question, perhaps he and the President would think that he was, and for some time past has been, a resident of England, and not of Russia: for, said Mr. Randolph, in a contested election from Massachusetts, not many years ago—contested on the ground of the residence of the gentleman in this District at the time of his election—"can a man be here and there?" To apply to his case his own language, can a man in England be in Russia? Sir, another view of this question: we are assured by the President of the United States the public interests with Russia will be preserved from prejudice, by the intercourse which Mr. Randolph will continue, through the secretary of legation, with the Russian cabinet. If they can be preserved from prejudice by Mr. Randolph's residence in England, cannot they be as well preserved if Mr. Randolph should reside in the District of Columbia? Is not this a subject we can judge of? And if we should presume to differ with the President, we have undoubtedly a right to express that difference in the only way left us—our vote on this appropriation. What do we get from the President but his opinion? And he does not say that we shall be as well represented—Mr. Randolph in England, and his secretary in Russia—but that our rights will be preserved from prejudice; and that they will be, is a matter of opinion, and nothing more—a matter of opinion at war with other declarations made by the President—among others, that, to represent us at this court, the best talents and greatest experience were called into requisition, not because they were not necessary, but because they were necessary. Sir, at this period of the world, when Europe is in commotion, when the spirit of freedom, and the spirit of revolution also, has pervaded every kingdom, it is not sufficient that our rights and relations with Russia are preserved from prejudice. We want an active, efficient, intelligent man at that court, who will, in season and out of season, so watch all the events of the day, as to be able, not only to communicate what has taken place, but who, from his knowledge of mankind and the world, from what has taken place, will be able to inform us what will follow. Can this be done by Mr. Randolph in England, with the aid of his secretary in Russia? No, sir, admitting this secretary has all the qualifications and

merits the gentlemen from Virginia have ascribed to him; as yet, sir, I have heard nothing in his favor from any other State, nothing from Pennsylvania, nothing from the gentlemen who represent the city of Philadelphia, who, if Mr. John Randolph Clay be this youthful prodigy, must have heard of him. I would address a few words to those gentlemen, the burden of whose song, ever since I became acquainted with them, has been economy, retrenchment, and reform. Professions are good, but actions are better; the former are never better received than when followed by the latter. Useless and extravagant expenditures and disbursements of public moneys, it has been said, drove the late administration from their places: for the argument, be it so, as I will not now stop to question what has been said. Because gentlemen are now in power, are they disposed to change their minds, and adopt the very course they censured the late administration for pursuing, and split upon the rock upon which they split? If consistent, they will go with us in withholding this appropriation, or granting it under such restrictions as to leave the President to judge whether Mr. Randolph is entitled to a year's salary. Further, sir, the power to appoint a *chargé d'affaires* by a public minister, on his leaving a court, is an incidental power, and belongs to the minister, under the law and usage of nations; and the moment Mr. Randolph left the court of St. Petersburg, Mr. Clay, the secretary of legation, in charge of our affairs, that moment became *chargé d'affaires*, and, as such, under the law of the United States, became entitled to his four thousand five hundred dollars; and young as he has been represented to be, he is not too young to neglect his rights, or not to claim what belongs to him. It is no kind of consequence that this claim is not now made; when preferred, we cannot resist it. He does not relinquish his right to it: and, when the claim is made, he will give you the evidence of the service rendered, and show you the law fixing his compensation. If, Mr. Speaker, there was not something very extraordinary in this mission, with its attendant circumstances—something unprecedented, and which astounded both friends and foes, why did the gentleman from Virginia, at the head of our foreign affairs, [Mr. ARCADE], before this debate commenced, and before, from any thing that had transpired, he had a right to suppose there would be any debate, go to the office of the Secretary of State, and request of him the privilege of inspecting documents touching this mission? And why was this privilege extended to the honorable gentleman from Virginia? I am not disposed to arraign the conduct of the gentleman from Virginia, or the Secretary of State, for this: I will find fault with no one; but, sir, whatever is presented to the House for their action, ought to be so presented that all may have the benefit of the same testimony. Perhaps the honorable gentleman from Virginia is satisfied with the information which has been confidentially imparted to him; but how it would affect us, we could best judge when we had it. I have adverted to the disclosure made by the chairman of the Committee on Foreign Affairs, to show that he has thought, in reference to this mission, there might be some few things "out of joint." Now, sir, what are the cases referred to, to show that the case of Mr. Randolph is not without a precedent? The cases of Mr. King, Mr. Brown, and Mr. Barlow: when Mr. King was, from sickness, rendered unable to discharge his duties as minister to England, he made that known to his Government, and asked to be recalled, not to go from kingdom to kingdom in pursuit of health, and at the same time draw his pay as our minister residing at the court of St. James. He was not sent to England clothed with the privilege of leaving the Kingdom when he pleased, and residing where he pleased, and as long as he thought proper. He never did leave the Kingdom, or the island of England, until he embarked for his native country: when

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he visited the watering places, it was at the time all the members of the English court were in the habit of doing it, and when, if he had remained at his post, no business could have been transacted touching the concerns of the two countries. This, sir, is the case of Rufus King, referred to, to justify the Government in its conduct towards Mr. Randolph. How close the resemblance—how striking the analogy! Sir, if Mr. Randolph had taken up his residence at Moscow, who could, and who would have complained? He might then have rendered his country all the service that could be rendered at St. Petersburg; but he has left the dominion of Russia—he has crossed kingdoms and seas to reach the place he has selected for his residence as our minister to the court of St. Petersburg. Mr. King's case can be compared to that of Mr. Vaughan's, the minister resident here, who passes his summers, or a part of them, at Long Branch, or Newport, Rhode Island. Mr. Brown never left the kingdom of France at any one time, nor Paris but once, and then, after he had made application to his Government to be recalled. Mr. Barlow, it is true, did leave Paris, but how did he leave it? in pursuit of health or pleasure? No, sir, in pursuit of the Emperor of the French nation, and in the discharge of the duties he was by his country deputed to discharge, and to accomplish objects at that time of primary importance to his country. He lost his life not in running from his duties, but in endeavoring to perform them. The case of John H. Pleasants has been referred to within the last six years, perhaps one hundred times: the sum of money received by him was small, compared with that which we are now required to vote to Mr. Randolph. The service required of Mr. Pleasants, it will be remembered, was performed, and the nature of it was such that it could be as well performed by one man as another. Not so in regard to the services expected of Mr. Randolph: Mr. Pleasants's pay ceased when his services were at an end; Mr. Randolph's services long since ceased, as the President of the United States has informed us; but, nevertheless, a year's salary is required. But Mr. Randolph was a distinguished newspaper editor, and he was employed, as is said, to satisfy him for his political services: Mr. Randolph was the principal man, it has been said, who pulled down the last administration, and erected the present on its ruins; then he has been employed, and is to be paid for these services. I will not run the parallel further. But, Mr. Speaker, suppose the cases of Mr. King and Mr. Pleasants were in point: what did gentlemen think of them three years ago? and for what purpose were they then referred to? To show the extravagance of the then existing administration; and now, these same gentlemen, to justify the President and Mr. Randolph, refer to those very acts of the late administration by them condemned as illegal, unaccountable, and unjust! Let them reconcile these inconsistencies if they can; it appears to me that it is only a desperate case which requires such arguments or such references to support it. Compare a part of Mr. Monroe's claim with Mr. Randolph's requisition—that part which grew out of his detention in Europe after he was recalled, and before he could embark. Yet, but a few gentlemen from Virginia have voted to allow this venerable patriot any part of his claim, while all who have addressed the House seem to think that, because there is an objection to this appropriation, it is because Mr. Randolph is a citizen of Virginia. I do not believe that any man who is opposed to this appropriation has for a moment thought of the State to which Randolph belongs as a cause of, or inducement to, the opposition. Mr. Speaker, to show that the course taken would not be novel in England, I would refer the chairman of the Committee on Foreign Affairs to what took place, not many years ago, in the British Parliament. Mr. Canning had been on a mission to Lisbon; he was charged with receiving pay when his services had ceased. Did he set up the

cry of persecution, in which his friends joined? No, sir; he boldly and fearlessly met the charge; he courted investigation, and his vindication was triumphant. No one was denounced for making the charge, nor will any one ever be, by men who are conscious of the rectitude of their conduct, and know they are shielded by justice.

I would now, Mr. Speaker, take leave of this question, and retire from this debate, having detained the House much longer than I could have wished; if I did not think myself under some obligation to pay my respects to, and notice a few of the remarks of the gentleman from Virginia, [Mr. ALEXANDER,] who immediately preceded me. The hue and cry in the course of this debate has been, spare Mr. Randolph, for he is an absent man, and not here to vindicate himself; and, notwithstanding this appeal, the moment my colleague's seat is empty, the gentleman avails himself of that to say of him what I should not suppose he would volunteer to say if he were present. I can assure the gentleman from Virginia, that he is not absent for the reason he suggested; it is true, he knew, when the House adjourned yesterday, the gentleman from Virginia would be entitled to the floor to-day; but I assure the gentleman that no fears or apprehensions in consequence of that has kept him from the House. If he had been in his seat, I do not think that any thing the gentleman has said, or can say, would "discompose the gravity of his muscles, or disturb the tranquillity of his mind." Nothing but an anxiety on the part of my colleague to finish what he had to say in this debate, induced him to come to the House yesterday; he was then too much indisposed to leave, with common prudence, his room, and he is more so to-day. I am the person, if any one, who ought to regret my colleague's absence on this occasion. It has been said heretofore, sneeringly, that he had been a professor of rhetoric; I do not know but he is now one. With his aid, I might have been able to have understood the gentleman's figures of speech: single-handed, I have abandoned any attempt to do this in despair. Uncle Toby, Corporal Trim, Tristram Shandy, long noses, constructive journeys, mileage bill, baldry, and vipers gnawing files, "have danced through his periods in all the mazes of metaphysical confusion." Sir, I have been unable to follow the gentleman in this rhetorication, and the only reason is, I have not been able to understand him. The gentleman has given this House a parody of the reply of Pitt to Walpole, (certainly he did not intend it as original,) in order to describe the unequal struggle between an old man and a young man. I looked at the gentleman for a moment, not knowing but in him I might discover some traits of character similar to those which belonged to the illustrious statesman he seemed willing to personate; I discovered but few, but about as many as he will be able to find in the character or life of my colleague, resembling those which distinguished Sir Robert Walpole.

The gentleman from Virginia has not been able, with all his researches, to find the speech of Mr. Randolph, a part of which was read by my colleague, and in which the whole of the present dynasty of Russia are characterized by Mr. Randolph for four generations, in his happiest and best style. I will refer the gentleman to the second volume of Gales and Seaton's Register of Debates, and inform him, that, if he will call on either of those gentlemen, he will learn that the manuscript came to them in Mr. Randolph's autograph, with all his touches and retouches upon it. This was not a speech which Mr. Randolph never made; not one published by his enemies, to hold him up to scorn. Mr. Randolph will not deny its authenticity, or thank the gentleman for calling it in question. With this speech published to the world, and a copy of it in the hands of the Emperor Nicholas in less than four months after it was pronounced, was Mr. Randolph the man who ought to have been selected for this mission? Grant that it belonged to some able or distinguished son of Virginia, could

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no one be found but Mr. Randolph? Sir, within the angle of my eye methinks I see one, more than one, at this moment, who would have discharged the duties of minister abroad, and to this court, with more credit to himself, and more to the satisfaction of the country, than Mr. Randolph. In every point of view it was an unfortunate appointment, both to the country and the individual. The gentleman from Virginia, who last addressed the House, informs us, that, when Mr. Randolph asked of the Emperor leave of absence, it was readily granted. I believe every word of this, for I have no doubt he had rather Mr. Randolph should reside in England than any part of Russia. But is such a residence compatible with our views, or the most conducive to our interests? Mr. Randolph is the minister of the United States, and not the Emperor of Russia's.

But, says the gentleman, this is not the time to express our disapprobation of this appointment; it ought to have been done when Mr. Randolph's name was sent to the Senate; his nomination was ratified without a division of that body. Neither the Senate nor the House then knew the nature of the appointment. Mr. Randolph was nominated minister plenipotentiary to the court of St. Petersburg, and, as such, his nomination was confirmed; but who then knew, or before the commencement of this session, of his discretionary privilege to remain in England? and who, before this bill was called up, could express any opinion in regard to the appointment? Sir, this appropriation is not opposed because Mr. Randolph is a Virginian; you know that, not many days ago, I did justice to Virginia, and said what I believed to be true of her illustrious and distinguished men. It is my attachment to these men that would induce me, if any thing could, to speak unfavorably of Mr. Randolph; for, what one of your Presidents has he not denounced, with the exception of Washington? I would refer gentlemen to his letter to James Lloyd, written during the late war, for a confirmation of what I assert. I could refer them to another fact, not yet alluded to, but well known to you. Mr. Jefferson's son-in-law, Mr. Eppes, during the administration of Mr. Madison, went into the gentleman's own district, and by his constituents was returned a member of Congress, for the express purpose of depriving Mr. Randolph of a seat here. Yet his fame is written every where, and the world is filled with his glory! This is news indeed. I would refer you, Mr. Speaker, to his toast, sent two years ago to the dinner given in honor of Mr. Jefferson's birthday. "The principles of Mr. Jefferson before he was in office, and the principles which brought him into office." Are these the sentiments of one who approved of, and supported the administration of Thomas Jefferson? I think not.

Sir, pass this appropriation, and unless Mr. Randolph has become divested of that purity of conduct, and incorruptibility, for which some of his friends have said he has been rendered more conspicuous than any other man, our labor will be in vain—not a cent of it can he touch.

Mr. P. concluded by moving an amendment, (which Mr. STANBERRY accepted in lieu of his motion to strike out,) viz. to add to the appropriation the following proviso:

"Provided, That the time which any minister shall absent himself from the country to which he is appointed, after having been received by the Government thereof, shall be deducted in computing his salary, or yearly compensation."

Mr. BOULAIN, of Virginia, said, as no man, in or out of the House, had any the least doubt about the issue of this debate, further argument upon it would be both idle and ridiculous. But I have feelings, sir, said Mr. B., which, in my situation here, it were almost criminal wholly to suppress. I should be sorry, however, if any one should deem me capable of entertaining a thought, for one moment, that the well-earned fame of our minister to Russia could be affected by any thing that has come,

or can come, from the gentleman from Rhode Island, [Mr. BURNES,] or needs any thing I could say in defence. Sir, that fame and character stands on a proud eminence, far above the reach of such a dagger as malice wears; it needs no shield that I could interpose. But, sir, the grounds on which the exhibition of the gentleman was made, deserve to be adverted to.

In the course of this discussion, he asked more than once, as did his colleague, [Mr. PEARCE,] what Mr. Randolph had done. What were the great services referred to by the message? The question has been before and better answered; but I too will give the answer; because it at the same time lays bare the reason why (now that Mr. Randolph is beyond the sea) we have been compelled to bear the vituperation we have heard. Mr. Randolph's services, sir, among others, are these: from his youth up to this time, he has lent the whole force of his mighty mind to the defence, the protection of the rights and liberty of the citizen, and the principles of the constitution, against the encroachments of power and the more dangerous combinations of interest; whether their movements were made under cover of protection, or in any other manner. In this, the noblest aim of the greatest mind, he was again and again successful. In that success, Mr. Speaker, the gentleman from Rhode Island, and others of his faith, met their defeat. Thus, by the exertion of his splendid talents in the same course of action, Mr. Randolph at the same time won the highest esteem, the warmest love and gratitude of those whom he so long and so ably represented here, placed himself on the ground of eminence and esteem which he now occupies in the minds and hearts of all good men and true, who are liberty's friends, and earned the everlasting hate of the gentleman from Rhode Island, [Mr. B.] and others his associates in principle and policy, and therefore we hear such now.

I would now, sir, proceed to remark upon some parts of the gentleman's speech; but, in the rules by which freedom of debate is secured, and decorum required, there are some things which I do not so precisely comprehend. The gentleman from New York [Mr. CAMERLONO] alluded the other day (hypothetically) to a perjured Senator—he was declared out of order. But, if on this floor a member reads a speech made in the Senate, and proclaims that such speech could be made by no gentleman, he is in order. [Here the SPEAKER interposed, and said "that if the Senator who made the speech was still a member of that body, the matter stated would not be in order."] Mr. BOULAIN said that the distinction, though nice, exists, and proceeded.

Yet, sir, were I, or any member of this House, to say that between the supposed critic and the habits, feelings, and manners of a gentleman, there existed a non-conductor, through which he could in no wise pass—it would not be in order. [The SPEAKER again interposed, and said, "the gentleman from Virginia has been in no manner alluded to during this debate; that, between the gentleman from Rhode Island and the gentleman from New York, [Mr. C.] some irregularity had crept in unobserved, and was afterwards of necessity allowed, in some measure, to be extended; but it shall go no further." The last remarks of the gentleman from Virginia, if applied to a member of this House, would not be in order, and he will not be allowed to proceed in that manner."] Mr. B. continued:—I did not make the assertion contained in the hypothetical case stated; nor intend otherwise to make it, than to contrast the effects of the rule on cases too much alike for me to see readily the difference. I did intend to remark on a few other particulars in the gentleman's speech; but, sir, as I confessed at first, that, for the decision of the matter in debate, argument is worse than useless, and any defence of Mr. Randolph being a work of supererogation, and as I could not remark freely and truly upon the particulars I have in mind, within the rules of the House, I



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will proceed no further, but conclude by remarking only, that it would not gratify my feelings to show simply that between the pictures drawn and the original there is no likeness to be seen, even by the painter himself, when I should be precluded from animadversion on the painter by the rules of the House.

Mr. BLAIR, of South Carolina, then expressed his regret that this debate had proceeded thus far, and demanded the previous question—Seconded—yeas 85, nays 77.

Mr. STANBURY demanded the yeas and nays on the previous question, and they were ordered.

Mr. C. P. WHITE moved a call of the House, which was not sustained.

The question was then put, "Shall the main question be now put?" and decided in the negative—yeas 73, nays 100.

This vote having the effect to remove the question of the engrossment of the bill from before the House for to-day,

Mr. DWIGHT moved to reconsider this vote, in order that the bill might be disposed of to-day.

The House agreed to reconsider the vote.

Mr. BLAIR then, with the consent of the House, withdrew his demand for the previous question.

Mr. STORRS, of New York, inquired of Mr. ARCHER as to the authority on which he had made certain statements, at the commencement of this debate, as to the condition and character of our negotiations with Russia, and the effect of Mr. Randolph's absence.

Mr. ARCHER declined making any disclosure on the subject of his authority. He stated that it would be improper to do so, as this negotiation is in its inception. He expressed his conviction that he should have the concurrence of the gentleman from New York, if that gentleman was in possession of the same knowledge.

Mr. STORRS said very likely it might be so, but he was without that necessary knowledge.

Mr. CARSON then rose, and said, the part which I shall act in this political drama, (or farce, if gentlemen choose so to call it,) will be but an humble one. My part shall be, sir, to defend, with my feeble abilities, a very humble individual in his own estimation, but one highly exalted in the hearts of his countrymen; an individual, sir, whose highest ambition is, to be permitted to walk in the peaceful shades of retirement, and pursue domestic ease; an individual who has never sought office, but who, like old Cincinnatus, when the exigencies of his country have demanded his services, has never refused the call, whether it be to the field or to the cabinet. That individual, sir, is Andrew Jackson, whose name has been introduced into this debate, but to be reviled and slandered. The other illustrious personages, whose names have been introduced, (Mr. Randolph and Mr. Van Buren,) have already been amply defended by their respective friends; they need nothing at my hands; it would be superfluous to offer it. To observe something like method in the course of my remarks, I must commence at the beginning, however much may be left out on the way.

It appears, sir, that the gentleman from Ohio [Mr. STANBURY] was the pioneer sent ahead to clear away the rubbish, and prepare the field for action. The first valorous knight which entered the list on their side, was the renowned champion of domestic manufactures, [Mr. MALLARY.] His onset, sir, was a bold one, and he lashed away with such fury, that it reminded me of Hudibras's bear, who

"Fighting fell, and failing fought,  
And being down he laid about."

The gentleman, sir, marched up into the very teeth of the great Autocrat of all the Russias, boldly demanding his country's rights with threatening countenance and menacing gesticulation, and then told us, "that was the way our ministers should do." Now, sir, if this is the very

way that ministers should do, why, they must be selected hereafter, not for their diplomatic, but for their physical abilities. The order of things must be changed; and, instead of selecting ministers for their intellectual and moral worth, athletic powers must be the standard by which we are to judge of men suited for foreign missions.

Sir, when the party to which that gentleman belongs comes into power, (which I trust never will be,) it may probably suit their notions of propriety to practise upon this theory; but I hope, sir, for the credit of my country, that powers of mind, instead of body, will be looked to in the selection of men to fill high and important stations. In dismissing the gentleman from Vermont, [Mr. MALLARY,] I will only add, that, while his friends may praise his courage, few will be found to compliment his discretion. The next gentleman to whom notice is due, is the learned member from Rhode Island, [Mr. BURGESS.] In the course of his remarks the other day, he invoked us younger members to recollect that respect due to "bald heads and grey hairs." I trust, sir, in what I may deem it my duty to say upon this occasion, or any other, I shall never be found wanting in that reverence always due to locks upon which age and experience have set their venerable signets. But, sir, if aged men see fit to enter the list, "and run a muck" against all the younger ones in the House, while chivalry might forbid the return of the arrows, self-defence may demand that we ward them off, whether pointed fair, or tipped with poison.

The gentleman set out by saying "that the present is, I believe, no unusual discussion. In the short term of my service in this hall, I have witnessed sitting after sitting of a Committee of the Whole House on the state of the Union, where the quantum of salary, compared with the service of foreign ministers, was the subject of most stirring debate. When has the competency of this House to move such a debate been questioned? Never, until the present sitting of the committee. If I am mistaken, I ask the chairman of the Committee on Foreign Relations to tell me when that question was made by the friends of the last administration." Now, sir, I will answer the gentleman's interrogatories, and tell him when, and by whom, "the competency of this House" was questioned, and also show him it was "by the friends of the last administration."

Sir, during the discussion upon the far-famed but abortive Panama mission, a similar question arose upon the bill making the appropriations for that mission, or upon the report made by the Committee on Commerce, &c. Mr. Webster, the great leader of the then administration party in the House, made the question, and the gentleman from Rhode Island implicitly followed his lead. I beg leave to read from Mr. W.'s speech, delivered 14th April, 1826. (Gales and Seaton's Debates, pages 22, 55, vol. 2d, part 2d.)

"Such appointments, says Mr. Webster, (foreign ministers,) is therefore a clear and unquestionable exercise of Executive power. It is, indeed, less connected with the appropriate duties of the House than almost any other Executive act; because the office of a public minister is not created by any statute or law of our own Government: it exists under the law of nations, and is recognised as existing by our constitution. The acts of Congress, indeed, limit the salaries of public ministers, but they do no more. Every thing else in regard to the appointment of public ministers, their numbers, the time of their appointment, and the negotiations contemplated in such appointments, is matter for 'Executive discretion.'" Again, he says, "he (the President) cannot shift the responsibility from himself, and we cannot assume it. Such a course, sir, would confound all that is distinct in the constitutional assignment of our respective functions. It would break down all known divisions of power, and put an end to all just responsibility." In short, sir, without tiring your patience with reading all the passages I have marked, Mr.

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Webster's speech throughout is an effort to prove that we were constitutionally bound to appropriate the salaries of public ministers; that we had nothing to do with the establishment of missions, nor with the appointment of ministers, nor with their instructions. Thus, sir, I have shown the gentleman from Rhode Island "where the competency of this House to move such a debate was questioned;" and that "it was by the friends of the last administration." That is not all, sir; for he, too, sustained the doctrine throughout then, (however obnoxious it may appear now,) by his vote, and by his aid to that mission, in every stage, and through all its ramifications.

Sir, how much more appropriate would the arguments of the learned gentleman from Massachusetts (Mr. Webster) have been to the question at present before us? Their force and reasoning, if it applied to the establishment of the mission to Panama, how much more eminently does it apply in this case? The present is a mission of long standing. Those acquainted with the diplomatic history of the country will recollect that it originated with Mr. Jefferson. He nominated Mr. Short, who was rejected by the Senate. Mr. J. Q. Adams was subsequently nominated by Mr. Madison, and was our first minister at the court of St. Petersburg, and a diplomatic intercourse has been kept up ever since between the two Governments. But it has been this ordinary kind of intercourse recognised by the laws of nations, and practised on by the civilized world.

Not so, sir, with the Panama mission. Although the friends of that measure labored hard to confound it with the usual diplomatic relations between friendly Powers; and although the persons nominated were denominated "ministers," yet they were the representatives of this nation sent to a "Congress of nations," which was by previous conventional arrangement, by treaties signed and ratified, to convene at the isthmus of Panama; and the topics for consideration and adjustment were all arranged and specifically set forth by the South American republics, in the treaties before alluded to. Our ministers then (more properly representatives, and deputies they were called in South America) would have necessarily been compelled to take part in those subjects; and, by taking part, it was feared by many of us that we might be committed, as a nation, to enter into any arrangement which a majority of those nations might have decided on. Therefore, the representatives of the people here had a right—nay, it was their bounden duty—to stay, if they could, a project so novel, so dangerous, and fraught with unknown consequences.

Yet the gentleman from Rhode Island, [Mr. BURGESS,] with a knowledge of all those facts, swallowed down that mission, appropriations and all, which cost the Government near a hundred thousand dollars, but now has become so fastidious with regard to the "people's rights," &c., that the regular salary allowed by law to our foreign ministers completely chokes him. Sir, I cannot say that this is "straining at a gnat and swallowing a camel;" but I do think it is swallowing a camel and then straining at a gnat. Sir, why is all this? Is it because Mr. Adams recommended the one, and General Jackson the other? If so, let me read another paragraph or two from the speech of Mr. Webster, which, no doubt, that gentleman considers high authority:

"The confidence which is due from us to the Executive, and from the Executive to us, is not personal, but official and constitutional, says Mr. W. It has nothing to do with individual likings or dislikings, but results from that division of power among departments, and those limitations on the authority of each, which belong to the nature and frame of our Government."

Sir, has the course of the gentleman from Rhode Island been influenced by "individual likings or dislikings?" But a little further, sir:

"It would be unfortunate, indeed, continues Mr. W., if our line of constitutional action were to vibrate backward and forward, according to our opinions of persons, swerving this way to-day, from undue attachment, and the other way to-morrow, from distrust or dislike. This may sometimes happen from the weakness of our virtues, or the excitement of our passions, but I trust it will not be coolly recommended to us as the rightful course of public conduct."

"The weakness of our virtues, or the excitement of our passions." Sir, upon which horn of the dilemma does the gentleman hang? Is it the result of weak virtue? or would it not be more charitable to suppose that "excited passion" had caused this extraordinary change? However, sir, with his virtues or his passions I have nothing to do—but yet I have not done with the gentleman.

Sir, let us run out the gentleman's doctrine, and see where it would necessarily carry him. "We," said he, "are the keepers of the people's money; we should keep a watchful eye over their interests, and should only pay for services actually rendered." "How long," asked the gentleman, "was Mr. Randolph at St. Petersburg? Pay him for that time—in justice he can demand no more."

Now, sir, if we adopt this as the rule of our action to graduate the pay according to services actually rendered, the rule must operate upon every officer of the Government. We cannot pay the judges of the Supreme Court until we inquire whether they have discharged all the duties assigned to them. If our venerable Chief Justice should be sick, or prevented arriving here to sit upon the Supreme Court Bench, by such a snow storm as we have just witnessed, why, the gentleman's doctrine is, to withhold his salary. The President, the heads of departments, nay, sir, our Senators and Representatives in Congress, we ourselves, must apply the rule to ourselves, and make it operate here too. What has been the situation of the gentleman himself during the present session? He was unable to attend to his duties here, by sickness, for some time. The people of Rhode Island elected him, not to be sick, but to attend to their interests on this floor. The gentleman has not done it; and why? Because his health would not permit him. And can any man here be so devoid of self-respect, so lost to every feeling and principle of a gentleman, as to move, in his place, "that, in the settlement of the accounts of Mr. BURGESS, he should not be allowed pay for those days he failed to attend the House on account of sickness?" Would not such a motion, sir, disgrace any man?

But, says the gentleman, Mr. Randolph was not fit—was by no means a suitable person to fill the mission, and the President ought not to have selected him, &c.; and, therefore, he should not be paid. The answer to this is, sir, that that is a mere matter of opinion; and the opinion which the American people, which Europe and posterity will entertain of Mr. Randolph as a gentleman, a statesman, and an orator, will be perfectly uninfluenced by any thing said, or to be said, in this House, by all that family of orators who select their moment for attack when he is three thousand miles off. It is matter of opinion, and it may be of jaundiced opinion. As well might I say the gentleman from Rhode Island was not fit for a representative in Congress, and that the good people of Rhode Island and Providence Plantations did themselves wrong to elect him, and, therefore, he should not be paid. But what would the answer be? "You, sir, have no right to think any thing about it; the constitution has given us the right to judge of that matter, and we will elect whom we please. The responsibility rests on us, not on you." This would be the response of the people of Rhode Island; and it would be the true response. It is also equally true, that the constitution has placed the appointing power in the hands of the President and the Senate, and from them we cannot take it if we would. It is no argument to say

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that they have not done their duty, or have acted improperly in the discharge of their duty, because they are not accountable to us; for, like ourselves, they are the agents of the people, and responsible alone to them; and should they violate the high trust committed to them, (as in the case of the last administration,) the people will remedy the evil. Sir, the propositions of the gentleman are so absurd, and so palpably untenable, as to almost require an apology for any argument designed to refute them; for they stand refuted on their very face. The object of the discussion, sir, cannot be mistaken. It is vainly hoped that, by this course of abuse and vituperation, they will get up a popular excitement against General Jackson; and they have pounced upon the appointment of Mr. Randolph, because he is unfortunately sick in a distant land, and they wish to hold the President responsible for the misfortunes of Mr. Randolph, because, say they, his health had been bad for a series of years, &c.

Now, sir, if the notions of the friend and partisan of the gentleman from Rhode Island [Mr. MALLARY] are to be adopted, and men selected for their proximity in strength to the horse or the ox, then I grant you that the President was wrong. It would have been better, sir, to have taken some Green Mountain Vermonter, a sheriff of Vermont, or a Rhode Island whaleman, who could have harpooned a king, or the "great Autocrat of all the Russias himself," and bring him to. But, sir, if political virtue, political information, political integrity, sagacious mind, towering and unequalled intellect, with rich stores of learning, such as no other man is heir to, of great moral worth, and high chivalry of feeling; in short, if the possession of every attribute which dignifies and ennobles men, should be the distinguishing characteristics by which we are to judge of men's fitness for such elevated stations, then I ask, sir, where was that individual to be found more eminently qualified than John Randolph, of Roanoke? Not on this continent, sir, and Andrew Jackson knew it, and the unanimous voice of the Senate approved the selection.

But let us pursue the gentleman's speech a little further: To show the great impropriety of Mr. Randolph's leaving the "royal city of St. Petersburg," the gentleman has found it necessary to state to this House, that "our relations with Russia have hitherto been cherished and sustained by a minister plenipotentiary residing near that court. At that court, in the royal city of St. Petersburg, and within the political and social circle of the Emperor himself, the high dignitaries of his Government, and the diplomatic envoys of all the nations of Europe, and many of those of Asia." The gentleman was not satisfied with the diplomatic term "near," but emphatically says, "at" the court, within the royal city of St. Petersburg, &c.

The frailties, Mr. Speaker, incident to poor humanity, (of which I feel that I have my full share,) are frequently pled in bar of errors committed when no better excuse can be offered. This may be pled, sir, by the gentleman from Rhode Island, [Mr. BURGESS], for that part of his speech which I have just read, when I have shown him from authority which he cannot doubt, which he dare not doubt, that that statement had no foundation in fact, and that the gentleman knew it.

Now, sir, for the authority. I beg leave to read you from a speech delivered in the House of Representatives by a member from Rhode Island, on the 15th February, 1827, Gales & Seaton's Register of Debates, vol. 3, page 1197, in favor of allowing Mr. Poinsett, our then minister at Mexico, an outfit of \$9,000 for travelling a distance of nine miles, from the city of Mexico to Tacubaya. This was the immediate subject under discussion, but the diplomatic expenditures of the Government had been investigated, and Mr. Adams had been placed in bold relief, as having received different outfits in the same year, while he was receiving an annual salary of \$9,000, and also charged for constructive journeys which he had never

travelled. It was in defence of those outfits, salaries, and constructive journeys, which the member alluded to was speaking; and that member was no other than the honorable gentleman himself, [Mr. BURGESS], who appears so horror struck at the idea of our minister at the court of St. Petersburg living for one day out of that "royal city." What does he say in defence of Mr. Adams, or rather as an excuse for the large amount of money which Mr. A. received in one year? "Let it be remembered, said Mr. BURGESS, (I will not read all, sir,) that Mr. Adams continued to be minister to Russia, and to discharge the duties of that station the whole time of his mission to Ghent, to form a treaty of peace with Great Britain. His mission to Russia continued after the conclusion of the treaty of Ghent," &c.

I ask you now, sir, to look at his speech in defence of Mr. Adams, and his exorbitant charges for his services, and his speech charging Mr. Randolph with the high crime of sickness, which he says should prevent Mr. Randolph from charging the Government with his salary, already fixed and regulated by law. To bring the charge home upon Mr. R., he found it necessary to state, in his place upon this floor, and upon his responsibility as a member, "that, hitherto, our relations with Russia had been cherished and sustained by a minister residing at the court, within the royal city," &c. &c. Yet, to acquit Mr. Adams, his statements are precisely the reverse. Mr. Adams, he says, while upon the peace mission at Ghent, continued to discharge the duties of minister to Russia. Sir, look at the two cases. While the whole continent of Europe was convulsed with war, while the mighty genius of Napoleon was holding the crowned heads of that hemisphere at bay, while the dearest interests of our country were at stake, and rested, in a great degree, upon the energy of our ministers at Ghent, and upon a faithful discharge of their duties, and when all the faculties of their minds must have been devoted to the treaty of peace, then under consideration; yet, under all these circumstances, Mr. Adams "was able, and did, says the gentleman, continue to discharge the duties of minister to Russia." Now, Mr. Speaker, I ask if, under all those circumstances, Mr. Adams could discharge the duties of that station; whether it is not much more fair to presume that Mr. Randolph (although unwell, and at London) can "continue to discharge the duties of minister to Russia?" The conclusion is irresistible; and I might here pause to ask, sir, how the gentleman could possibly shield himself from this gross, this palpable inconsistency. Perhaps, sir, behind the ramparts of a "bald head and grey locks." Be it so. Is any one here ignorant that Mr. R., with that elevation of character which has always distinguished him, left the United States without an outfit, refusing to receive any thing which was not regularly and specifically appropriated to his compensation, and that he is actually in Europe on his own resources? This single fact, so characteristic of that gentleman, stands as a set-off to this whole debate, the only reference to which, in time to come, will be for the sake of this great fact, which his friends could not otherwise have placed in that full view before the American people, which its disinterestedness, and sacred regard to specific appropriations, so richly deserves.

The gentleman from Rhode Island has also taken it upon himself to state that the last annual message of the President "was the production of cabinet ministers, and that no member of this House could, without hazard of his reputation, say that he believed the President composed one sentence of it." Will he say, also, that he did not fight his own battles? that his victories were gained, not by him, but by others for him? The gentleman, no doubt, Mr. Speaker, considers himself very high authority in cases of this kind; but, sir, hazardous as it may appear to the gentleman, I here take the liberty of saying that I believe

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not only one, but every sentence of the message was composed by Andrew Jackson. I mean by that, sir, that all the great and leading principles contained in that document were the suggestions of the President's own mind. There is no doubt that his cabinet ministers were consulted; and in any thing which it became necessary to say, which had immediate connexion with either of their departments, the head of that department would, of course, be consulted, and their views and wishes attended to, and treated with the deference and respect due to them. This he might do, and be as much the author of his message as of his victories. But what has this to do with the question before us? Nothing, sir. And it only proves the design of getting up this debate. It was not, sir, to prevent the appropriation of the money, but to get an opportunity of letting off some of their yellow bile upon the administration; hoping, perhaps, to get up a popular excitement which would injure the President in his next election. And the *modus operandi* of the gentleman is, to plunder from General Jackson his hard-earned fame; to steal from him the civic honors he is winning for himself, and with those honors to deck the brow of Mr. Van Buren. And, to do this, he turns tail on himself, and contradicts all the doctrines of the Panama and Tacubaya school. Yes, sir, while he denounces the Secretary of State as a Machiavel, he makes him the author of all the President's messages, and particularly his last, which has been pronounced by the American people to be one of the most able State papers delivered to Congress since the commencement of the Government. But that may be the reason of the attack on the message. The people like it; therefore some hate it.

But, sir, the purity and integrity of Gen. Jackson's character is so well known and established with the American people, that the gentleman is aware he is invulnerable in that part; and the greatest effort of the gentleman has been to make him a fool, an automaton in the hands of a "Machiavelian" politician, who moves him at will. Sir, I do not hesitate to pronounce that more injustice has been done to General Jackson, with regard to the dictation of his various communications to Congress, than to any great man that our country has produced; and it is the result of two causes, operating with equal force, to blast the fame of that noble, generous, good, and great man. One of those causes results from the course pursued by the Adams and Clay party during the last Presidential election. The abuse and slanders poured forth against him by his enemies, will be recollected by all. Nothing that villany could suggest, or baseness execute, but what was said and done to ruin the standing and character of General Jackson. He could neither read, write, nor spell, said the party; and although so many proofs have been given of his superior intellect and learning, yet it would not do for the gentleman from Rhode Island to recognise it as the production of General Jackson; for that would be giving the lie direct to his party, and to what he has, no doubt, said himself. Therefore, it is, that they will allow nothing to General Jackson which is his.

The other cause I alluded to is, that certain of the friends, or pretended friends, of General Jackson, are looking forward to their own elevation, and will willingly take all the credit of General Jackson's acts, and of his administration, if it will aid their future prospects. His fame or himself are nothing to them, unless they can be advanced by him or his fame. And thus, sir, is this great man, honest himself, confiding in his nature, about to be destroyed by those causes operating in conjunction. His character, sir, is the property of this nation, sacred to the American people, and "must be preserved."

The gentleman from Rhode Island amused me by a discovery which he has made, and which has only been excelled by an "invention" which he charges Mr. Van

Buren with having made. The part of the message relating to the mission to Russia, the gentleman says, is a "fabric wrought in the State Department, and that Mr. Van Buren had invented that mission to suit the talents, &c. of John Randolph."

Sir, since the inventive genius of man first developed itself—since the days in which the mighty genius of the great Grecian poet invented the machinery of poets, and brought gods in alliance with mortals—never has such an invention as this of Mr. Van Buren's been heard of.

What, sir! invented a mission that had been invented more than twenty years ago, and, in accordance with the original invention, diplomatic intercourse regularly kept up between the Governments ever since! Well may this be called the age of mechanics, when such inventions as these are brought forth. If Archimedes had had whereon to set his fulcrum, he could not have surpassed this invention of the Secretary of State: and if Mr. Van Buren could only get a model of his own invention, and deposit it, according to our patent laws, in the Patent Office, he would certainly be entitled to a patent right for the most novel and extraordinary invention ever heard of by man. Sir, I shall push on now to a duty, which is a painful one, but one made necessary by the course and object of this debate. I remarked before, sir, that it was impossible to disguise the aim and object of the opposition, who have provoked this unnecessary and unexpected discussion. It is, sir, to induce the people to believe that General Jackson and his friends are regardless of their rights, and recklessly squandering their money; and they have taken occasion to remark upon expenditures of the last administration, which were denounced as highly improper by the republican party then in Congress, whose objections have been subsequently sustained by the American people. Sir, as the people, in their high elective capacity, had pronounced judgment upon the last administration, and consigned the men then in power to the shades of retirement, I think it would have been better for their friends to have suffered them and their acts to have remained undisturbed. But, sir, as they have challenged a parallel case to this of Mr. Randolph, I will show it them.

I commence, sir, by naming the much-talked-of and far-famed, but abortive, Panama mission, which cost the Government something like one hundred thousand dollars. The particulars and merits of that mission it is not now necessary to mention or discuss. But there were some circumstances connected with the movements of one of the ministers and the secretary of legation, which I deem it proper to bring to the recollection of gentlemen who supported that mission, but who deem the appointment and movements of Mr. Randolph so reprehensible.

The nominations of Mr. Anderson, Mr. Sergeant, and Mr. Rochester, were confirmed by the Senate on the 15th March, 1826. Mr. Anderson, who was our then minister at Bogota, left that place, under his new orders, for Panama, and had to wait till he died in the pestilential swamp of Carthagena, while his colleagues were electioneering in the United States. He was, nevertheless, paid, or his representatives were paid, an outfit of \$9,000: (I have the authority of the gentleman from Rhode Island for saying so:) and he stated it in his speech made in favor of Mr. Poinsett's receiving another outfit, who was appointed the successor to Mr. Anderson. It will be recollected, sir, that the Congress of nations adjourned from Panama to meet at Tacubaya, a place about nine miles distant from the city of Mexico, where Mr. Poinsett then was, as our minister, and the gentleman [Mr. BURGESS] advocated his receiving an outfit of \$9,000 for travelling that distance, while he was receiving his salary of \$9,000 per annum, and which he never travelled; for the vagrant Congress was never found, nor ever sat in any town, village, or parish, whatever.

It was not thought expedient by Mr. Adams and Mr.

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Clay, to order Mr. Sergeant and Mr. Rochester to repair to Panama, as originally designed, but kept them at home for other purposes. The distinguished gentleman who occupies this chair (pointing to the seat of Judge Hemphill, of Philadelphia) resigned his seat on this floor after the close of the first session of the nineteenth Congress. A successor, of course, had to be elected. The administration, as was their custom, started a candidate, and Mr. Sergeant was the man. The gubernatorial election came on in the same year in the great State of New York, and Mr. Rochester was started there.

Thus, we see, sir, that those two gentlemen, who had been nominated and ratified by the Senate as minister and secretary of legation to Panama, were kept at home, and were the administration candidates before the people, while Mr. Anderson was exposed to yellow fever and black vomit, in Carthagena, where he had been recklessly ordered, and cruelly left to die!

But what is the most extraordinary of all this novel proceeding is, that Mr. Rochester should have been paid his salary as secretary of legation to Panama, while he remained at home, canvassing for the office of Governor, against that truly great and lamented man, De Witt Clinton. I say truly great, sir, for if we were now asked to point out his equal, whither should we turn our eyes to find him?

But there is another fact connected with this transaction, not very reputable to Mr. Clay, to be sure, but one which I shall here notice. When it was discovered that Mr. Clay had paid Mr. Rochester his salary, not for attending the legation at Panama, but for running against Mr. Clinton in New York, a certain committee of this House thought it their duty to inquire of Mr. Clay the reasons why he paid Mr. Rochester. And if reasons had been as plenty as blackberries, Mr. Clay would have done much better not to have given one; but a reason was called for, and a reason was given. What was it, sir? Why, it was, said Mr. C., that Mr. Rochester resigned a high judicial office, (judge of the circuit,) for the purpose of accepting the appointment conferred on him by the Government, and that he waited the orders of the Government to sail, &c.; but as the Government did not think proper to order him to Panama, it was no fault of Mr. R.'s; and as he had been deprived of his salary as judge, Mr. Clay thought it but fair that he should be paid his salary as secretary. Sir, I quote from memory, and therefore do not pretend to give the precise words of Mr. Clay, but I give the substance. His letter, however, is on record, and, if he is misrepresented, his friends can correct me.

But, sir, the fact turned out to be, that Mr. Rochester had resigned his judgeship some months before the appointment had been conferred on him, and in his letter of resignation says expressly, that his bad health compelled him to resign, and that he was unable to discharge the duties of his office. Yet, Mr. Clay said, he resigned his judicial station to accept the office conferred by the Government, when the fact was, that he had resigned months before, because he was unable to discharge the duties of judge. Sir, those are facts which cannot be denied: I leave the comment to others.

To conclude, with regard to those gentlemen, sir, they were both beaten; and shortly after their defeat they set sail in the United States' ship *Hornet*, to find this celebrated Congress of nations, which they never did find, and which I predicted would be the case, in a speech made upon this floor during the last session of the nineteenth Congress; and that emboldens me, sir, to make another prediction for the satisfaction of those who vainly hope, by such efforts as these, to break down the present administration, and that is, sir, if it should please God to permit Andrew Jackson to live, the people of the United States will re-elect him to the Presidency, and gentlemen may make their calculations accordingly.

The secret mission of the late Mr. Cook to the island of Cuba was remarked upon by the gentleman from Rhode Island, but for what purpose, I am unable to see. It certainly could not be to benefit Mr. Clay; for that was an act of the last administration, which could not be defended, unless it was upon the ground that something was due and probably promised to Mr. Cook for having given the vote of Illinois to Mr. Adams; and that that secret and furtive mission was given in discharge of the obligation. And though this may be a very satisfactory reason to the gentleman from Rhode Island, I doubt whether it would be so to the American people. Certain it is, Mr. Cook got the money; certain it is, he went home, via the Havana, scarcely touching there, and was in Illinois in May, having left New York in April.

The other member from Rhode Island [Mr. PEARCE] brought up the subject of J. H. Pleasants, and places Mr. Randolph's return to London as a complete set-off to that transaction. In the first place, sir, I have never been satisfied that the special agency of Mr. P. was necessary as bearer of despatches to Buenos Ayres. But, if the importance of the despatches demanded such agency, Mr. P. is said not to have performed his duty, and, therefore, ought not to be paid. Mr. Randolph certainly did arrive at St. Petersburg, and we know not how much business he may have performed, or how important that business was to the interests of this country; time will no doubt develop all. But Mr. Pleasants never did arrive at Buenos Ayres, but gave the despatches with which he was charged, to a sea captain, who, I have understood, delivered them; and he, Mr. Pleasants, went to England, and was paid for it. That is briefly, I believe, sir, the amount of that matter.

When Mr. King left London, he left his son, who was his secretary, in charge of the business of this Government, for which Mr. Adams paid him an outfit of four thousand five hundred dollars, in direct violation of the law regulating the salaries and outfits of our foreign ministers, and also paid him the salary of a *chargé des affaires* for the time he remained after the departure of his father. But the worst is, that some of the rascally democrats have had the impudence to say that this outfit to Mr. King, and the nineteen hundred dollars to Mr. Pleasants, were given to secure the influence of two presses, &c. But those subjects, Mr. Speaker, have been sufficiently discussed heretofore, and I pass them by.

I have, said, sir, that I have believed that General Jackson was the author of his messages, and that his cabinet ministers were only consulted with regard to matters immediately connected with their respective departments. Sir, I will venture to say further, that, when the time arrives, which I have no doubt will arrive, that all the important political writings of Andrew Jackson will be published, his messages, originally written by himself, and in his own handwriting, will be pronounced by the American people better than those which have undergone a cabinet scrutiny, where any suggestions of his cabinet ministers have been substituted in place of the original.

I say this, sir, because we have abundant evidences of the energy and superiority of his writings, in those productions which are indisputable. He has written in the wilderness, without the aid of books or counsellors; he has written from the field of battle, where the paper bore the impress of a hand darkened by the smoke from his cannon and small arms. In some instances, however, he may have omitted to cross a "t or dot an i," which would, no doubt, shock the grammatical correctness of the gentleman from Rhode Island, but the honest yeomanry of the country know him, know his services and his worth, and will sustain him.

In conclusion, sir, I will ask leave to refer to one or two cases where ministers have heretofore left courts to which they were sent. Mr. Jefferson left Paris during



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his residence there as our minister, and made a tour of France, or a considerable part of it; his travel was induced by an injury received in one of his visits; his absence was from February till June.

The late Governor Eustis, of Massachusetts, spent the last winter of his mission to Holland in a small island in the South of France, (the island of Hieres, in the Mediterranean.) This he did on account of his ill health, and was no doubt permitted to do so by the Government—Mr. Adams was our then Secretary of State, and must have given the permission; but no reduction of his pay was asked for. There are many other instances, sir, but I believe they have been generally referred to by gentlemen who have preceded me in this debate. Sir, I have, perhaps, trespassed longer than I should have done, and, with these remarks, will submit the question.

Mr. STANBURY next rose. Before the vote shall be taken on the question now pending, said Mr. S., I wish to say a few words in answer to the charges made against me for bringing this business to the notice of the House. I made the motion for striking out the salary for the Russian minister, without previous concert or consultation with any of the political parties into which this House is divided. I acted on my own responsibility as a member of this House—as an unconnected individual, who has nothing to hope or fear, either from the present administration, or from any administration which may succeed it.

The facts which I stated as the foundation of the motion, have not been contradicted or denied. Mr. Randolph was appointed our minister to Russia, and, before he accepted the appointment, the Secretary of State stipulated with him that he should not be compelled to discharge the duties of the appointment. Mr. Randolph, after spending a few days at St. Petersburg, left the Russian empire, and is now either in England, France, or Italy, attending to his own business, or following his own amusements, and in a situation where it is impossible for him to attend to the duties of his office. His absence is not temporary; but the probability is, nay, it is almost certain, that it will be permanent. And we, the Congress of the United States, with a full knowledge of all these things, are called upon by the Secretary of State—[Mr. CARSON here intimated that it was by the President]—No, sir, by the Secretary of State, for it is all his work, and he shall not avoid his proper responsibility by skulking behind the popular name of the Chief Magistrate. We are called upon by the Secretary of State to appropriate nine thousand dollars to pay the annual salary of this imaginary, this constructive Russian minister. Sir, if we make the appropriation without some restriction, we will sanction a greater abuse than a British minister, with a subservient and hired Parliament at his heels, would dare openly to practise. I am aware that, in England, individuals receive large sums of the people's money, without rendering any public service. Even there, these abuses are hid from the common eye by some kind of decent covering. Let a British minister avow openly in the House of Commons that he had appointed an ambassador to Russia, and, at the same time, stipulated and agreed with the ambassador that he might reside at London; let me further suppose that the ambassador had resided in London, in pursuance of the bargain; and that, under such circumstances, the British minister should find it necessary to apply to the House of Commons to make an appropriation to pay the ambassador, as though he had resided at St. Petersburg, and fulfilled all the duties of the appointment—to make the case more like the one before us, let me further suppose that the relations between the two Powers were such as to render the constant residence of the ambassador at St. Petersburg necessary for the interest of Great Britain—I say, sir, let a British minister, in the case which I have supposed, apply to Parliament to approve of his conduct, and I will venture to assert that

not one member, even from a rotten borough, could be found, who would not think his independency violated and insulted by the demand. No British minister would dare to hold such language towards a member of Parliament, who had made a motion similar to that which I submitted, as has been applied to me in the course of this debate. A gentleman from New York [Mr. CAMBRELENG] called it a disgraceful motion. I allude not to any thing contained in the written speech of that gentleman, the production of three weeks' hard labor, and which was delivered yesterday with such graceful gesticulation, and so much theatrical emotion. The expressions to which I allude, were used by the gentleman in his first speech, when this business was fresh before the House. The gentleman nods assent. I did not misunderstand him. This language, too, was used by a gentleman who represents himself to be the intimate personal and political friend and confidential adviser of the Secretary of State. As the Secretary of State is not entitled to a seat on this floor, and is deprived of an opportunity of an immediate vindication, when his conduct is called in question, perhaps it may be right and fair to hear him by his deputy. A charge from so high a source, of so grave a character, as that of submitting a "disgraceful" motion to this House, calls upon me for a defence. I am desirous of humbly showing, by precedents, that a member of this House has a right to submit any motion calculated to prevent an extravagant expenditure of the public money; and that such a motion has not heretofore been deemed disgraceful. In my search for precedents, I have found many instances where members of this House have had the hardihood to question the propriety of the acts of the Executive. The industry of the gentleman from North Carolina, [Mr. CARSON,] who has just taken his seat, has furnished the House with some cases which occurred during the administration of Mr. Adams. Although that gentleman had not that object in view in citing those precedents, I conceive that they furnish me with an excuse for submitting this motion; they prove that the party with whom I then acted, and whom I will still follow, in all measures not inconsistent with our professions, when out of power, pursued the same course which is now condemned in me. I lament that any measure of the present administration has been so bad as to compel its friends to justify it by the very worst acts of its predecessors. This task must have been peculiarly humiliating to the honorable gentleman from North Carolina, who took so conspicuous a part in practising the late administration, for the very measures which he now relies upon as precedents to justify an abuse committed by the present administration. The precedent on which I shall principally rely, and which furnishes me with the most ample vindication, occurred in the British House of Commons, in 1817. It is the motion made in the House of Commons, by Mr. Lambton, relative to the late Mr. Canning's embassy to Lisbon. The case has been mentioned by the gentleman from Rhode Island, [Mr. PEARCE,] who addressed the House this day. I will give a more accurate statement of it, from the book which is now before me, and which contains an authentic account of the proceedings which took place, in the House of Commons, on that occasion. [Mr. S. here read from Mr. Therry's Memoir of the Life of Canning, as follows:]

"Mr. Lambton this day brought forward the motion of which he had given notice, respecting Mr. Canning's embassy to Lisbon. In bringing forward this motion, he disclaimed any intention of attack upon the right honorable gentleman, (Mr. Canning,) whose name was prominently connected with the transaction to which it referred. It was not the conduct of an individual that he arraigned; but the charge which he had to prefer, was against his Majesty's ministers, of delinquency, by which, in his opinion, they had subjected themselves to an impeachment, (if that was not obsolete proceeding,) on a charge

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of a criminal misapplication of the public money, for the most corrupt private purposes. This was not the first time when this transaction had been made the subject of discussion. Both within and without those walls, it had been regarded as a measure resorted to purely for the purpose of supplying the weakness of the members of Government, by calling to their assistance the talents of the right honorable gentleman, (Mr. C.) talents too useful indeed to languish in obscurity. It had every where been asserted that there were no public grounds for sending an ambassador to Lisbon after the conclusion of the Peninsular war; that it was a disgraceful waste of the public money, and solely to be attributed to the lowest species of political barter and intrigue. The papers which had been laid upon the table of the House, fully proved that the mission to Lisbon was undertaken with no prospect of advantage to the interest of this country in its political or commercial relations, but with a view solely to the political, and he might almost say commercial advantages of the ministers themselves—and, for these sinister objects, they consented to add to the burdens of the people, already groaning under the weight of an insupportable taxation."

You will notice, Mr. Speaker, that if the facts stated by Mr. Lambton, as the foundation of his motion, had been true, his Majesty's ministers would not have been guilty of a greater delinquency than is our Secretary of State for the appointment of Mr. Randolph as our minister to Russia. In one important circumstance, the abuse on the part of the American Secretary is greater than that of the British ministers. One ground of complaint against the British ministers was, that there were no public grounds for sending an ambassador to Lisbon. It was therefore only the unnecessary expenditure of the public money, in paying the outfit, salary, &c. to Mr. Canning, that could be complained of. But, in our case, it is admitted that the constant residence of an American ambassador at St. Petersburg is highly necessary for the interest of this country. So that, sir, while we are put to the expense of paying the outfit and salary of an ambassador, we remain unrepresented. We have not only to complain of the profligate waste of the public money, but, in addition, the Secretary of State has to answer to the American people for the neglect of their important interests at St. Petersburg, at a very critical period.

At all events, the case which I have referred to, establishes the fact, that motions, similar to that which I submitted, are not unusual even in the British Parliament. I will now proceed to inquire whether the motion was considered unparliamentary or disgraceful. Lord Castle-reagh was minister at the time, and present in the House of Commons when the motion was brought forward. Did he, sir, like the representative of our prime minister, acknowledge the truth of the fact alleged as the foundation of the motion, treat it with insolence, call it disgraceful, and rely upon a subservient majority to sanction the abuse? No such thing appears from the proceedings. So important did Mr. Canning himself view the charges preferred against him, and the ministers from whom he received the appointment, that he made in his defence the most able, dignified, and eloquent speech which I have ever read. He nowhere pretends that the motion was unparliamentary or unusual—much less, sir, did he call it disgraceful. He admitted, that if the charges preferred against him were true—that if it were true that he had consented to take an office for the mere purpose of receiving the salary, without a prospect of rendering any public service, he would be forever disgraced, and that it would disqualify him from serving the public, with credit to himself, or with advantage to the State. Sir, Mr. Canning did make a most triumphant defence; but no part of his defence consisted in vulgar abuse of the mover of the resolutions against him. He thought it necessary

to show, and he did prove, that the facts alleged as the foundation of the motion were not true. Would to God it were in the power of Mr. Randolph to make a defence equally satisfactory—although some gentlemen may have taken the opportunity afforded by this motion, to manifest long cherished prejudices against Mr. Randolph, I desire it to be understood that I have never entertained any hostile feelings towards him. It so happens, sir, that there is not a member of this House, who has so uniformly approved of the political course of that distinguished gentleman as myself. I have admired the man, not because he owned land and negroes, (which is the only merit one gentleman from Virginia, [Mr. Coke,] who spoke early in this debate, could discover in him,) but my admiration was founded on higher considerations. I admired him for daring, in the worst of times, to speak the truth on this floor, regardless of the abuse which his independence and honesty never failed to receive from the court sycophants of the day. I admired him because he would not blindly follow his party, when his party abandoned the principles which brought them into power. Another reason, sir, for my admiration of him, was that his course on one occasion bore some faint resemblance to my own. He abandoned Mr. Jefferson, when Barnabas Bidwell joined him. I departed at some little distance from Andrew Jackson, when Martin Van Buren got the full management and direction of him.

I did most sincerely lament the appointment of that man to the high office of Secretary of State. I lamented it, because I feared that he would labor to introduce into the Government of the whole Union the same corrupt system which has so long disgraced the politics of his native State. The pride of Virginia seemed to be offended, when it was insinuated that the appointment of one of her popular citizens was designed to make Virginia regard favorably the aspiring views of the Secretary of State. Whatever effect the corrupt dispensations of the patronage of the Government might produce on other States, Virginia is too pure to be influenced by such means.

It must have humbled the lofty pride of your great State, Mr. Speaker, when she beheld the very Cato of the commonwealth fall before the first and the only temptation ever presented to him. I have, said Napoleon, only to touch the sturdy democrat with gold, and he becomes my slave forever. It is upon this bad opinion of mankind, that your Secretary of State always acts, and it is indeed the great secret of his success.

Unless there shall be found firmness, patriotism, and independence in this House, to resist this first open attempt to bestow the public money for the private advantage of the Secretary of State, we will teach him still more to despise mankind, and to believe that they are only fit to be slaves.

The principal objection which has been urged against striking out the appropriation, is, that it will put an end to our friendly relations with Russia. My own opinion is, that it will have no such tendency. So far as our friendly relations with Russia depend upon the residence of an ambassador at St. Petersburg, our Secretary of State has already put an end to them. And the success of the original motion would have the effect of restoring our customary intercourse, by compelling the recall of Mr. Randolph, and the appointment of a more efficient man. But as the fear of interrupting our friendly relations with Russia would influence some gentlemen to vote against my motion, but who nevertheless are decidedly opposed to this disgraceful job, I came to the determination of modifying the motion in such a way as to meet with the approbation of every one who agrees with me in believing that this transaction ought not to escape the censure of the House.

Mr. BUCHANAN, of Pennsylvania, said: he did not

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rise to pronounce a eulogium either on the Secretary of State, or the minister to Russia. This task had already been sufficiently performed by their friends. Neither did he rise to assail the motives, or to attack the character, of any gentleman upon that floor. Such a course had never been, and he trusted would never be, pursued by him. He rose, very briefly to state his own reasons for voting against the amendment under consideration.

Judging from the discussion of the question on all sides of the House, one might be led to suppose that some of the best settled principles of constitutional law had been abandoned, and that, after an experience of more than forty years, we are still left in doubt and uncertainty as to the powers which the constitution confers on the Executive branch of this Government. On this subject, that instrument is so plain, that he who runs may read. It confers upon the President of the United States, by and with the advice and consent of the Senate, the exclusive power of making treaties with foreign nations, and appointing public ministers to negotiate these treaties. Both the minister and the treaty are called into existence, without the agency, either directly or indirectly, of this House. The people of the United States have entrusted, and, in my opinion, wisely entrusted, our foreign relations to the President and Senate. To the people, and not to this House, are they directly responsible for the proper execution of this high trust.

It is true that, in many cases, the House of Representatives are called upon to make appropriations for carrying treaties into effect; and, in all cases, we vote the out-fits and salaries of our foreign ministers; yet, it is equally certain that we are under a high, moral, and constitutional obligation to make the grants of money necessary for these purposes. I do not say that extreme cases may not exist, in which it would be our duty to refuse such appropriations. The safety of the people is the supreme law; and if their rights and liberties were endangered by any treaty, or any mission, it might then become the duty of this House even to disregard their constitutional obligations, for the purpose of preserving the republic from danger. Should such a case ever occur, it will make a precedent for itself. I think no gentleman will contend that it exists on the present occasion.

It is not my purpose either to applaud or to censure the appointment of Mr. Randolph as minister to Russia. He was regularly appointed to this station by the President and the Senate. To them, and to them alone, it belonged to judge of his character and qualifications. And here, after what has been said in this debate, it is but justice to state that the nomination of Mr. Randolph was the spontaneous act of the President himself, and sprung solely from the suggestion of his own mind. This nomination, thus made, received the approbation of the Senate. It appears from their secret journal, which has since been published, that, in that body, there was not even a division upon the question. I have a right to infer that the President's selection was unanimously approved by the Senate, because it does not appear that there was one dissenting voice. Whether this be the fact or not, I cannot tell, because I have never had any communication with any Senator upon the subject.

Under these circumstances, shall we withhold the money necessary to pay the salary of the minister thus appointed? Shall we arrest this mission to Russia, which has been long established with great advantage to the country, because we do not approve the conduct of the present minister? He is responsible for his conduct to the President, and the President himself is responsible to the American people. From that responsibility it is not in his nature to shrink. The constitution has not conferred upon the House of Representatives any power to arrest a mission, merely because they may be dissatisfied with the appointment or conduct of the minister.

I admit that, in the present agitated state of Europe, it would be highly proper that we should have a minister actually residing at St. Petersburg, and I regret exceedingly that Mr. Randolph's health did not enable him to remain in that city. But who could have predicted, at the time he left this country, that such a necessity would have existed? Europe was then tranquil: she was reposeing in peace. There was no precursor of the approaching storm, unless it was the stillness which portends the earthquake. The madness and folly of a single despot have aroused the people of that continent to vindicate their rights; and I trust in God they may never lay down their arms until the liberties of each of its nations shall be secured by constitutional charters.

When Mr. Randolph sailed, the President could not have foreseen any of these events. Our relations with Russia had always been of the most stable character. The absence of our minister from that court, during the inclemency of the winter months, could not have operated to our prejudice, in the then existing state of things. Under such impressions, was it improper for the President to give to Mr. Randolph a contingent permission to leave "temporarily his post, for the advantage of a more genial climate," in case he should discover that his health was not sufficiently vigorous to endure the severity of a Russian winter? And yet this circumstance has been seized upon for the purpose of making a most bitter and violent attack upon the present administration.

But, said Mr. B., the original motion has been changed with the approbation of the mover: and now, instead of merely depriving Mr. Randolph of his salary, it contains a general provision depriving all the foreign ministers of the United States of their salaries for any portion of time they shall be absent from the country to which they may be sent, no matter for what cause. The provision is general in its terms; it makes no exceptions; what, then, is its nature? The salaries of our public ministers to England, France, and Russia, are notoriously inadequate for their support. Indeed, it has now come to this, that no man having a family, unless he is wealthy, can afford to accept any one of these three missions, without danger of being ruined in his circumstances. In opposition to every principle of our Government, no poor man who is prudent would accept either of these stations.

A minister thus sent abroad, is equally liable to sickness with all other men. We know not what a day or an hour may bring forth. He may leave this country in the most vigorous health, and, after his arrival at the place of his destination, he may be prostrated in a moment by sickness, or his health may be impaired in the public service by severe and close attention to the duties of his mission. Under such circumstances, it may become absolutely necessary, for the restoration of his health, that he should for a short time leave the country. Should this amendment prevail, it will deprive a minister of his salary during the time that he absents himself, merely for the purpose of recruiting his health, even although his constitution may have been shattered by his laborious and anxious endeavors to serve his country. The means of subsistence will thus be withdrawn from him, at the very time when necessity will compel him to incur the greatest expense. Is it possible that this House will ever sanction so unjust a principle? Such a principle has never even been suggested in the past history of our country. Shall we now adopt so unjust a provision, and apply it to all ministers, under all circumstances, merely because at the present time we may be dissatisfied with Mr. Randolph's absence from the Russian court? I cannot believe that this proposition will receive the sanction of any considerable portion of this House.

Mr. BATES, of Massachusetts, said, as I perceive it is the intention of the House to take the question, I will not trespass upon its patience, and will only state the grounds

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upon which I place my objections to the provision of the bill which is now under consideration, and, of course, upon which I shall vote for the amendment. And, in the first place, I wish it to be understood that I have nothing to do with the minister. I leave him to the commentaries and the eulogies of others. My objections rest upon another basis altogether.

Nor am I opposed to a mission to Russia. Quite the contrary. And if the Committee of Ways and Means will so change the phraseology of the bill, as to make the appropriation general, for the support of a minister, or mission to Russia, it will stand well enough. The responsibility, in relation to this mission, will be left where it belongs, and where it ought to remain, upon the Executive, unaffected by the doings of this House. But the bill in terms makes an appropriation to pay "the salary of the minister to Russia." Who is the minister to Russia? Mr. Randolph. It is, therefore, a distinct, specific provision to pay his salary, and the salary of his successor, I admit, should one be appointed within the year. But, in my view, it recognises, and confirms, and justifies all the proceedings of the Executive in relation to this mission. Sir, can this be doubted? Should a question arise as to the legality of this mission, or the expenditures of the Government in support of it; and such question may arise—would not this House be stopped by its own act from questioning either? With the knowledge of all the facts as to the origin and progress of this mission, or the means of knowledge within its power, we order the outfit and salary to be paid. This is an authority to the Executive, and it confirms and justifies his acts. Whatever doubt there might have been about it, had no objection been taken, yet, if Congress now refuse to interpose a clause to prevent the objectionable implication, it seems to me that it is inevitable. Now, sir, I will not confirm by my vote the proceedings of the Executive in regard to this mission. I cannot reconcile it to my sense of duty to sanction, even indirectly, what, in my conscience, I believe to be a dangerous innovation in the practice of this Government. Wherein, I will state presently.

But we are here met with the objection that this question ought not to be raised upon an appropriation bill; that it is irregular, unparliamentary. The gentlemen who make the objection do not tell us how it can be raised in any other way in time to meet the exigency. They only tell us this is not the way. If there be another, let it be shown. Sir, there is none. If this is not the way, then this House is reduced to the slavish condition of the Commons of Henry VIII, and our only business here is to vote the supplies. It is not so, sir. When an appropriation is demanded, this House has a right to look at the object; if it approves, to grant; if not, to withhold. This is the old Whig principle, which this House will be slow to give up. When the Executive acts within his constitutional sphere, and according to the established usages of the Government, it does not become this House in any way to interfere.

In such a case, I admit our obligation to vote the supplies. But when the Executive does not, it is going quite too far to say that this House is bound to vote the supply notwithstanding. This brings us to the question whether on the part of the Executive this mission can be sustained and justified upon the constitutional and established usages of this Government. I say it cannot. And, in the first place, the object of the appointment, it seems to me, was not solely for the benefit of the people, nor in any way for the public good. Nor can I approve of the manner of the appointment. Who can doubt what the understanding was between the minister and the Executive before his nomination to the Senate, the extent and boundaries of which, events have since indicated? He was authorized to do precisely what he has done, as much so as if he had had in his pocket a license under the seal of the

Executive for his every act. This is fairly inferrible from the facts that the minister would not be likely to violate his instructions; that no intimation has been given that he has done it; that the President who introduces the subject into his message, admits that he had liberty to act at discretion, without a suggestion that he had abused it; and, more than all, he is not recalled. This puts the seal of the administration upon his acts, and appropriates and stamps them as its own. Such was the understanding, then, between the Executive and the minister. Was this communicated to the Senate? Had it been, it is impossible the nomination could have been confirmed. If, as suggested by the gentleman from Pennsylvania, [Mr. BUCHANAN,] the Senate was unanimous, it must have been through ignorance of this fact. It was then an appointment according to the forms of the constitution, defeating the purpose of it. Nor can I sanction by my vote the conduct of the Executive in relation to this mission. I deny the power of the President to dispense with the services of a public minister, and to release him from his obligations to the United States, continuing his mission and his salary. The occasional recess, even of our ministers abroad, is matter of indulgence, not right. Or, if the Executive has the power, I affirm that here was an abuse of it. Hitherto, only ten or fifteen days in Russia! In the present condition of the world, and our relations to it! Not an accidental, an unanticipated absence, as intimated, but as certain when the minister left the country as it is now—too probable at least to be justified.

I say, therefore, in conclusion, that the conduct of the Executive in these particulars was unconstitutional, and a dangerous innovation which I am not prepared to sanction. It is upon these grounds I place my vote, and not upon any objection to the minister or mission; and at this hour I content myself with simply stating them.

Mr. ARCHER then rose to address the House; but, to give him a better opportunity than the lateness of the hour now permitted,

Mr. BARRINGER moved an adjournment; and  
The House adjourned.

WEDNESDAY, FEBRUARY 9.

## REPORTS OF THE JUDICIARY COMMITTEE.

The resolution to print six thousand copies of the reports of the majority and minority of the Judiciary committee, on the subject of the repeal of the 25th section of the Judiciary act of 1789, being again taken up for consideration,

Mr. CRAWFORD said: To address this House upon the subject-matter, of two reports, on a proposition to print them, and to sustain the one, or impugn the other, would be alike irregular and unprofitable. I can have no disposition to speak to a settled question, and particularly to one that has been decisively settled, but have risen for a special purpose, which shall be accomplished in brief space. When this resolution was under consideration two days ago, the honorable gentleman from Virginia [Mr. GORDON] complained of the demand made for the previous question, on the rejection of the bill for the repeal of the 25th section of the judiciary act of 1789, reported by a committee of which that gentleman is a member. I beg leave to say to him and to the House why I made it. I hope, although I have been here but a short time, it is unnecessary for me to state that nothing was further from my thoughts than to show the slightest disrespect to any member of this honorable body. I was, in due parliamentary course, exercising a right which belonged to me, and which I then thought, and now think, duty required me to use, against a bill that involved considerations of the first impression, and presented a question, upon the decision of which the best interests of the country were staked.

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The constitution is as broad as the law, and the stroke that shall cut off the 25th section of the judiciary act from our code, will inflict a fatal wound upon the charter of our common rights. I was, therefore, unwilling, if I could prevent it, to allow these States to be agitated and distracted, even for a day, by the supposition that any doubt existed on this vitally important subject. If it was debated, it appeared to me that anxieties and tormenting apprehensions, during the discussion at least, would enter into the minds of many, and that the very fact of its being argued would imply that the issue was doubtful. Had it been so—still more, had it been adverse to my wishes, I should have deplored it as the greatest political evil but one. I did not believe it was so, or that it would so result, and desired that an immediate decision might be had—that the sense of its representatives should be made known to the nation without delay.

In addition, and perhaps it operated more than any other consideration that impelled me to the course I pursued, I hold some parts of our political fabric to be of so sacred a character, that they are injured by familiarity. They ought not to be touched with an intention to destroy them. You cannot but lessen their sanctity by handling them. Of this description are the constitution, and the particular law now in our view, which is but an amplification of it, sanctioned as they have been, and are, by forty years' action, and the approbation of the country. Besides, if this subject is to be discussed, I do not believe "now is the accepted time;" and, if it were in other respects, the residue of the session will not afford sufficient space for the considerateness and gravity of reflection which all should and would bring to such a debate. These, sir, are briefly the reasons which actuated me. I wish they were satisfactory to all; to myself they are perfectly so.

In regard to the proposed printing of three thousand, now enlarged to six thousand copies, I confess I do not perceive the necessity for it, seeing that copies of both reports have been multiplied, and are multiplying; by all the newspapers of the day; but as many honorable gentlemen think differently, and especially as the minority desire that the resolution should pass, I will cheerfully yield my own opinion, and vote for it.

Mr. DANIEL, of Kentucky, then rose, and said, the motion now under consideration was of ordinary occurrence, and assumed importance only from the fact that the measure recommended by the report did not receive from this House that consideration to which it was entitled by its merits, by the principles it involved, and by the deep and pervading interest which it had excited in the community. It may not be strictly in order, said Mr. D., to debate the merits of a report on a motion to print, but the reasons necessary to sustain the motion may, however, be urged with propriety. In order to correct any abuse that may have found its way into the statute book, or into the administration of the Government, let facts and arguments be submitted to the people; they are the rightful judges; and let them determine, with the evidence before them, whether a particular law, a section of a law, or any act of the administration, should be repealed, modified, or corrected. Their decisions on all these subjects are, and ought to be, binding on their representatives on this floor. Many gentlemen in this House feel the full weight of this responsibility; and although all are honorable men, yet it would seem (and in this light alone can the people view it) the rejection of the bill recommended by the report, before the period had arrived at which it could be discussed, and its merits laid before the public, was an attempt to stifle the investigation of a subject of great national importance—a subject about which the whole country felt a deep interest, and demanded information.

Mr. D. said he had not supposed that a subject of such magnitude would have been so lightly passed over by a body of politicians who profess to regard, and be govern-

ed by the will and opinions of their constituents. The honorable member from Pennsylvania [Mr. CRAWFORD] supposes that it would be highly improper to investigate or agitate a subject of this character, as it would be the means of awakening inquiry among the people; and hence, in all probability, produce all over the country an excitement against the court. This was a laudable opposition to a measure of so much importance, and well deserves the admiration of an intelligent, free, independent, and sovereign people. The motives which influenced the course of the honorable gentleman, strange as it may appear, led other gentlemen to vote against the discussion of the bill. To submit a proposition for the due deliberation of the people of this Union, appears, in the eyes of the aristocracy of the country, and even by some who call themselves republicans, a subject of censure rather than commendation. Those who consider themselves superior to the people, are always jealous of any measure that would tend to reduce them to a level with the source of all legitimate authority in this country. Mr. D. said he had every confidence in the virtue and intelligence of the community. He had been taught from his infancy to look up to them as the pure fountain of power. The great error into which many distinguished individuals have fallen, is not placing a proper estimate on their intelligence and sagacity. This error attaches itself with great force to those gentlemen who have opposed the repeal of the twenty-fifth section of the judiciary act to which I have alluded. They have no confidence in the people, and are afraid to submit to them any proposition to which they are opposed. Why this apprehension? Is it because they believe, if submitted to the judgment of the people, that the decision will be against them? Or is it to be ascribed to an overweening vanity that the agents know more than the principals? To such public servants let it be said, that, in their hands, the republic is not secure. The motives of members of this House are not to be impeached, nor will it be attempted on this occasion; yet it may be said, and said truly, too, that in this House there are three parties, and, by a union between any two, a measure proposed by the other can easily be defeated. It was clearly perceivable, when the bill was rejected on its second reading, that a union of this character took place; and it was manifest to every observer, that the object of its rejection was to operate against a distinguished individual of the South. Disunion and nullification were instantly made the watchword, and every yelper of a particular cast immediately joined in the cry. But this movement shall be noticed more fully hereafter.

Mr. D. said he would now take a cursory view of the twenty-fifth section of this judiciary act, and compare its provisions with those laid down in the constitution of the United States. The section is as follows:

"A final judgment, or decree, in any suit, in the higher courts of law and equity of a State in which a decision in a ——— could be had, where is drawn in question the validity of a treaty or statute of, or authority exercised under the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or authority exercised under the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favor of their validity; or where is drawn in question the construction of any clause of the constitution, or of a treaty or statute of, or commission held under the United States, and the decision is against the title, privilege, or exemption, specially set up or claimed by either party under such clause of the said constitution, treaty, statute, or commission, may be re-examined, and reversed or affirmed, in the Supreme Court of the United States, upon a writ of error, the citation



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being signed by the chief justice, or judge, or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner; and under the same regulations, and the writ shall have the same effect as if the judgment or decree complained of had been rendered in a circuit court; and the proceedings upon the reversals shall also be the same, except that the Supreme Court, instead of remanding the cause for a final decision, as before provided, may, at their discretion, if the cause shall have been once remanded before, proceed to a final decision of the same, and award execution. But no error shall be — as a ground of reversal in any such case as aforesaid, — such as appears on the law of the record, and immediately respects the beforementioned question of validity, or construction of the said constitution, treaties, statutes, commissions, or authorities in dispute."

It will be seen that this section vests in the Supreme Court of the United States the right of judging in the last resort, of confirming or reversing the decision of the State courts, in all cases, civil and criminal, which may have been submitted to their adjudication. The tremendous power embraced in this section designates the particular class of cases of which the Supreme Court may take jurisdiction; but this does not lessen the evil of which the States have a just right to complain. Indeed, it is a power which draws within its vortex nearly every case that may, in the last resort, be decided by the State tribunals. By this section, the States are deprived of the right of determining on their own powers, and are made subordinate to the Supreme Court of the United States. The division of power in the federal constitution is intended to guard against the possibility of the States being reduced to the condition of inferiors to that which was created by their own voluntary choice. The powers delegated by the States to the General Government were intended to be adjudicated by a tribunal organized for that purpose by judicial authority. This tribunal, so far as authorized by powers delegated, is independent of the State tribunals, and the State tribunals independent of it; each acting on its own responsibility, and in the sphere of its own legitimate authority. To render the powers delegated by the States independent and sovereign, and for the States at the same time to retain their sovereign and independent character, were questions of delicate and deep consideration by the framers of the constitution of the United States. The conventions of the States to ratify the constitution of the United States, and particularly the convention of Virginia, composed, as it was, of her most distinguished statesmen, objected to its ratification, because the due powers of the States were not reserved by an express clause. To obviate this objection, it was urged, and not without success, that, at the first formation of such an instrument, perfection could not be expected; but that no danger should be apprehended by the State rights men, as the constitution could be amended at any time, when experience should suggest the propriety of such amendments. It was believed by many of the sages of that day, that the constitution was sufficiently explicit, without an express clause to guard against the usurpations of the Government just organized. Three distinct and separate departments were formed, and the powers and jurisdictions belonging to each were limited by different boundaries. To the judiciary department of the Government were allotted the power and jurisdiction necessary and proper to render the Government perfect. But, said Mr. D., the whole authority from which the advocates of supreme power in the courts of the United States justified themselves in enacting the 25th section of the judiciary act alluded to, will be found in the third article of the constitution, as follows:

"The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as

the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office. The judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between citizens of different States; between citizens of the same State claiming grants of land under different States; and between a State and the citizens thereof; and between foreign States, citizens, and subjects.

"In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where said crime shall have been committed; but when not committed within any State, the trial shall be at such place or places as Congress may by law have directed."

It is provided in the sixth article, second section, that "This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding."

In the third section it is further provided, that "The Senators and Representatives before mentioned, and members of the several State Legislatures, and all executive and judicial officers, both of the United States, and of the several States, shall be bound by oath or affirmation to support this constitution: but no religious test shall ever be required as a qualification to any office of public trust under the United States."

Thus stood the constitution, said Mr. D., when the judiciary act of 1789 was passed by Congress, and approved by the President. The constitutionality of the 25th section was then doubted; but it passed in company with other provisions, indispensably necessary to the salutary organization of the federal tribunals. It has remained on the statute book uninterrupted for many years, and age has given it some claim to veneration. That plea has often been asserted in its favor by the enemies of State rights. While the principles of the great revolution were adhered to, this act was seldom, if ever, resorted to; but as they have degenerated, that which was once considered as usurpation is now appealed to as an evidence of right, until the strides of federal usurpation begin to alarm the most indolent. The spirit of indignation has already gone abroad in the land, and the people are now seeking a remedy for the evil. It cannot be stifled nor subdued, let the friends of power do what they may to repress it. In vain do we ask for the clause in the constitution that authorizes a writ of error to be prosecuted from the decision of the supreme court of a State to the Supreme Court of the United States. The judicial power of the United States is vested in one supreme court, and in such inferior courts as Congress may from time to time ordain and establish; and the Supreme Court shall have appellate jurisdiction, and, in some specified cases, shall have original jurisdiction. The appellate jurisdiction refers to the

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inferior courts established by Congress, and not the inferior courts of the States. This doctrine, if successfully maintained, would prostrate every vestige of the sovereignty of the States. Their ability to keep the General Government in the proper sphere of its action would be taken away, and the State Governments left at the mercy of a splendid consolidated Government. This singular state of things would exist; the Government intended as one of limited specific powers, would become one of general unlimited authority, beyond the possibility of control. The power of judging of its own authority, as well as that of the States, assumed and maintained. What other powers are there in a Government which has any pretensions to sovereignty? It should be borne in mind, that all Governments are subordinate, and that they are only made sovereign by the sovereign will of those by whom they have been established. In this point of view the General Government is subordinate to the States; it is subject to their will and discretion. They can alter, change, or modify it. The power of judging of the General Government, in a great measure, belongs to the State Governments, because the Government was formed by the States in their sovereign capacity. It is true, the General Government has the power of judging in certain matters submitted to it by the forms of the constitution of the United States; and this judgment is final and obligatory on the individuals concerned. For example, the President of the United States has the authority to decide whether an individual convicted of a high crime by the judgment of a court, should be pardoned or not. Here the judgment of the President should be final. Congress possesses the authority to decide whether they will pass a certain bill, and the President possesses the power of putting his veto on them after Congress has passed them. These are proper exercises of the respective authorities granted to Congress, and the Executive of the Union, by the States. The judiciary of the United States has the authority to decide on all cases submitted to it under the express provisions of the constitution of the United States, and by the laws made in pursuance thereof. The decisions are final, and cannot be disturbed, because they are made under a proper exercise of delegated powers. But suppose these different departments were to take upon themselves the exercise of authority not delegated by the constitution; where then is the rightful remedy? Who is to judge of the infraction of the constitution? Those who have violated it? Or will you refer the matter back to the creating power, and let them decide whether the constitution has been violated or not? It is rare that a case of this character will occur; but when it does, it is proper that the principle should be applied. In the State Governments the remedy is at hand, and the people are secure from any injury that may result from a wanton violation of the constitution, by their frequent elections. Besides, the operations of the Government are under their immediate control. They pass judgment instantly on the acts of their representatives, or those of the Executive, or the judiciary. The State Governments were created directly by the people, and all violations of the fundamental principles of the Government are submitted to their decision. The General Government was formed by the States, and should be subject to the same principles, and the same rules of interpretation. Mr. D. said that no Government nor individual could be sovereign, without the power of judging and determining on its own acts.

In relation to the State and General Governments, each is sovereign and independent of the other; but not so in relation to the creative power. It is a solecism in politics, to maintain that a Government is independent of the power that creates it, or that the greatest despot on earth is independent of the people. To them Governments and despots owe their allegiance. The operations of the General Government are so far removed from the people,

that the lessons of prudence dictated to the framers of the constitution the importance of limiting its action, while they retained to the States all that was necessary to enable them to maintain their authority and independence. In the estimation of the States, their rights were not sufficiently secured. Dissatisfaction arose on this subject among the people, and sundry amendments were proposed and adopted, which were the result of this dissatisfaction. Two of them bear on the judiciary act under consideration. They are as follows:

"The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." "The judicial power of the United States shall not be construed to extend to any suit, in law or equity, commenced or prosecuted against one of the United States, or by a citizen or subject of any foreign State." These amendments were adopted long after the passage of the judiciary act of 1789, and show very clearly that they had for their object this independence of the States. The latter amendment appears, from the journals of Congress and the message of the President, to have been finally acted upon and adopted on the 8th of January, 1798. These amendments, whatever doubts may have existed before, must settle the question as to the unconstitutionality of the 25th section of the judiciary act. That provision of the constitution is not perceived, which authorized Congress to pass an act permitting a writ of error to be prosecuted from the State courts to the Supreme Court of the United States. I know, said Mr. D., that it has been drawn from that part of the constitution which declares that the constitution of the United States, the laws made in pursuance thereof, and treaties made by the authority of the United States, should be the supreme law of the land. This, he said, was a declaration that the constitution, laws, and treaties of the United States, should be supreme; and the courts of the United States, and also the courts of the States, in their adjudications, should so consider them; but that it confers any jurisdiction on the courts not previously given, is positively denied. It is true that the judicial power shall extend to all cases arising under the constitution, the laws of the United States, &c.; but this can only be understood as applying to courts which were to be organized under the constitution, and not to the tribunals of the States. The judicial power of the United States was not vested by the constitution in the State tribunals: it was vested in one supreme court, and in such inferior courts as Congress may, from time to time, ordain and establish. Did Congress ordain and establish the supreme courts of the different States? Or were they, by an act of the National Legislature, made inferior courts? or could they be so made by any legislative act of the General Government? The superior court of a State is as much supreme as the Supreme Court of the United States. Each acts independent of the other; each has its limits assigned; and the one cannot coerce the other to the performance of its duty. The Supreme Court of the United States cannot compel the tribunals of a State to respect its mandates. The supreme court, it is true, may, if it chooses, refuse to permit their clerk to certify their record to the Supreme Court of the United States. A writ of error could not then be prosecuted. These facts show how entirely fallacious is the idea that the supreme court of a State is inferior, in relation to the Supreme Court of the United States. The judges of a State are as competent to decide on the constitution, laws, and treaties of the United States, as the judges of the Supreme Court of the United States. Those who do not admit that the State courts possess this qualification, must pay a poor compliment to the States, and the intellect of their judges, when they yield to the Congress of the United States the power to make the supreme court of a State an inferior tribunal. This exer-

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cise of power, if authorized by the constitution, would be highly improper, and could only be resorted to on the supposition that the judges of the State are either incompetent or corrupt.

The minority of the committee have placed it on the ground that the judges of a State are corrupt, and, therefore, are not to be trusted. They say that a State might pass laws to prevent the collection of the revenue, or to seize on the lands belonging to the United States; and that the courts of the States would enforce those laws, regardless of the oath taken to support the constitution of the United States. In that constitution, the laws and treaties of the United States are made the supreme law of the land, and the judges of the States are bound thereby. Can it be supposed by any rational man, that the framers of the constitution ever contemplated an encroachment on the sovereignty of the States, such as would reduce them to mere petty corporations, or to perpetual inferiority, annihilating at once every vestige of their sovereignty and independence? It is the opinion of some very distinguished men and jurists, that the judges of the Supreme Court of the United States have no authority to declare the law of a State unconstitutional. This duty was to be performed by the State tribunals; and the courts of the United States ought to take their decision as evidence of what the statute is, and its effects. If this course had been pursued, no collision would ever have arisen between the State and federal authorities; but a different practice has prevailed, and collision after collision has been the result. In some instances, the Federal Government, the harmony of the country, has been shaken to its very centre by these collisions. Nearly every State in the Union has had her sovereignty prostrated—has been brought to bend beneath the feet of the federal tribunal. It is time that the States should prepare for the worst, and protect themselves against the assaults of this gigantic tribunal. It is useless to disguise the fact. The national tribunal, sustained and supported as it is, stops at nothing to obtain power. Its jurisdiction is daily increasing, and will continue to increase till the tribunals of the States, and the States themselves, shall have been robbed of all their original jurisdiction. Courts, at all times, and in all countries, have sought to enlarge their jurisdiction, and have succeeded in the same proportion as the people have become supine and careless of their rights. In England, the court of king's bench, the court of common pleas, and the court of exchequer, were courts of limited jurisdiction; but they assumed one power after another, and at last became courts of general jurisdiction. The same, perhaps, is going on with regard to the courts of the United States; and, Mr. D. said, he would venture to predict that the same result would follow, unless Congress should aid in frowning down their usurpations; which, he thought, from recent occurrences, was not likely to happen. Opposition to the report is placed by the minority of the committee on another ground, equally flimsy and absurd. Law is a science, and he who is schooled in it must, in his construction, either of the constitution, of the treaties, or of the statutes of the United States, come to the same conclusion. It is admitted that the decisions of some of the courts may differ, either from ignorance or neglect; but this difference is not to be attributed to the system. Under the 25th section, the decisions may now be different: for example, if the State court sustain the law of the United States, no writ of error can be prosecuted; but if it should decide against its validity, a writ of error may be prosecuted to reverse or affirm that decision. If the opinion should be affirmed, no uniformity will exist in the courts. Uniformity does not even now exist in the courts of the United States. Where suits are brought in those courts by citizens of different States, and where the validity of treaties, laws, and the constitution of the United States, is not drawn in

question, the decisions of the State tribunals are adopted as the rule of decision for the Supreme Court of the United States. To this rule there has never been any complaint. It has, on the contrary, been approved by the American people. The fears apprehended by the minority vanish at the touch. The jealousy that the States may pass laws to prevent the collection of the revenue, is idle and ridiculous. Do they know that the Federal Court exercises the power of preventing any interference by the States with the affairs that properly belong to the General Government, independent of the 25th section of the judiciary act? When the Legislature of Kentucky passed a law to tax the Bank of the United States, an injunction was granted and sustained by the Federal Court to prevent its operation, and the law declared null and void. If the Legislature of any of the States should pass a law to punish an individual who takes upon himself the collection of the revenue, the courts would, on application, declare the law a nullity. This power, although exercised by the court, Mr. D. said, was, in his judgment, a violation of the 11th amendment of the constitution of the United States. But this exercise of power is not so alarming as the exercise of power by virtue of the 25th section, because it strikes directly at the root of State sovereignty, and levels it with the dust. The repeal of this section, however, was scarcely determined on by the committee, before the majority was assailed in all the forms of newspaper slang and virulence by the proscribed tools of the old federal party. The writing editor of the *National Journal*—the putrid offal of Piccadilly—casts his mite of nauseous verbiage into the common reservoir of slander. Mr. D. said he knew but little of the private history of this individual, nor was it necessary in order to lead to a just estimate of his character. His appearance is sufficient to condemn him. His face would accuse and convict him of the most infamous crime in the calendar, which involved only the meaner and more grovelling passions of its committal. Even while he is moving about, he is constantly casting about him a quick sinister glance of the eye, as if in expectation every moment of being arrested by the high constable of London, to make atonement for some felonious or burglarious offence, that required not the exercise of manly courage, but cunning and dexterity. Another worthy editor of Virginia, distinguished only for the infamous notoriety of his crimes, through every stage of his existence, from the pulsing days of his boyhood down to the present time, has also made an attack upon the majority of the committee, and particularly on the individual who now addresses the Chair. To such worthy associates I will only say, "a villain's censure is extorted praise." All the opposition to the repeal comes from a source where it might be expected. It is of the same family as the alien and sedition laws. In order to render the measure odious or disreputable, it is designated nullification by some, and disunion by others. It is true, there is something in names; they have some influence on the public mind. The term federalist was harmless in its origin, but, from a variety of circumstances, which are not necessary to be related here, it became exceedingly odious to the people; and the party to which it was attached has of late been endeavoring to get rid of it as a cognomen likely to prove injurious to the success of their political aspirations. They have been exerting their ingenuity in order to barter it off for a new name—national republican. Nullification has been attached to the South, because certain politicians believe they can deceive the people by the use of the term. Those who believe so, calculate too largely on the ignorance of the public. The people of this country are too intelligent to be led off by such a shallow artifice. They are not to be alarmed by a raw-head and bloody-bones conjured up by those who have been at all times the enemies of equal popular rights. They will inquire who these nullifiers are,

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and what part they bore in the darkest and most trying period of our history. They will ask, where were these nullifiers during the late war, when a foreign enemy polluted our shores, and threatened the liberties of our country? Did they contribute men or money to sustain us in our deep distress, to meet the wants of an empty treasury and destitute army; to repel the pampered myrmidons of a haughty foe; to mitigate the calamities of a relentless war, and to bring the contest to a happy and glorious termination? They must know the object of the nullifiers before they can sympathize with those who have a common interest in decrying them. Their object is to preserve the Union, and save the constitution at its last gasp. If they acted the part of patriots during the late war, when actions spoke devotion to liberty and the Union louder than words; if they have always sustained the principles of republicanism, and are now sustaining them in their purity, surely such men are not to be sacrificed, to gratify the indomitable ambition of weak, but cunning inguiters, who have no claims to the distinction after which they aspired, but an acknowledged capacity to plan and execute all the petty devices of political management. Sir, said Mr. D., the South has always been the defender of our country in times of difficulty and danger; the firm advocate and supporter of the constitution and the union of the States. The complaint urged against that patriotic State, (South Carolina,) by designing politicians, is, that her constituted authorities believe that the powers of the General Government have been transcended by Congress, and that their only relief is to be found in a direct appeal to the people of their own State in convention. In a measure of this character there is no danger to be apprehended, because the people have to settle the question whether there has been a palpable, deliberate, and dangerous exercise of power by the General Government. The solemn manner in which this subject is to be tested, the time given for ample investigation, are sure guaranties that the expressed constitutional rights of the General Government will be properly appreciated. The liberties of the people are always more secure in the hands of those politicians who refrain from the exercise of doubtful authority, than with those who estimate their own judgment as superior to their constituents, and, when the chain of legitimate power is stretched to its utmost, hesitate not to break a link, if necessary, to accomplish the ends of unchastened ambition. Hence the propriety of a full discussion and consultation by the people and their agents, before they proceed to decide on this very delicate and important question. The individual who may have formed an erroneous opinion in relation to the reserved powers of the States or the people, can never be a proper subject of popular censure, if the opinion so formed be favorable to the rights of the people. The agents, doubtful of their authority, appeal to the principals who are most interested, and ask them to settle the doubtful point. Who, I would ask, said Mr. D., is better qualified? The Government is their own property, formed by their own hands, created for their own use and convenience, and not to gratify the selfish cravings for power and patronage of those who may be called to administer its functions. The people have a right to dispose of this Government in the manner pointed out by the constitution. This is a position so clear that it cannot be denied. It then follows as a necessary consequence that the States have a right to judge of its operations, and to apply a remedy whenever it may appear to them that their agents have transcended the limits of the constitution. The beauty and harmony of our Government consists mainly in its operation, when that operation is not interrupted by collision with the State Governments. To prevent this evil, a proper respect must be paid to each. The one would then control the other, while each would control itself. Of this opinion was Mr. Hamilton, who, in one of the numbers of the

Federalist, says, "that in a single republic, all the powers surrendered by the people are submitted to the administration of a single Government; and usurpations are guarded against by a division of the Government into districts and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct Governments, and then the position allotted to each is subdivided among districts and separate departments. Hence a double security to the rights of the people: the different Governments will control each other, at the same time each will be controlled by itself." In this article it is clearly seen that the State Governments were not considered as subordinate to the General Government, though the different departments of each had a portion of counter controlling power. The courts of the State Governments have authority to decide on the laws, treaties, and constitution of the United States; and the federal courts in turn have an equal power to adjudicate the laws and constitutions of the United States. Take from the States this privilege, and you destroy that reciprocal action, that principle asserted in the Federalist. Sir, said Mr. D., we have fallen on evil times; the good old republican doctrine of '98 is openly repudiated and discarded by many who once figured on the theatre of democracy. He [Mr. D.] remembered, that, after Mr. Clay had voted for the compensation law, so called, an excitement arose in his district against that measure. The opponent of Mr. Clay for a seat in the National Legislature, although at that time not a favorite with the people, yet he was likely to outstrip Mr. Clay in the canvass. In order to counteract, or rather counterbalance, the popular odium which this compensation law had excited, one of the friends of Mr. Clay published a handbill, charging his opponent with having voted against the famous resolutions of '98, declaring the "alien and sedition laws" unconstitutional, and asserting the absolute right of the States to judge of their constitutionality. During this animated contest, these resolutions were made the test between federalist and republican; or, in other words, between those who would retain, and exercise by the people and by the States, those powers not expressly granted by the constitution, and those who were disposed to yield up all to the decision of one grand consolidated Government, wielding the power and patronage of all, and tending to tyranny and despotism. These resolutions went as far, if not farther, in limiting the action of the Government, than the leading politicians of South Carolina. The President himself has not stopped short of that doctrine. He has said, in language not to be misapprehended, to the Cherokee Indians, that the State of Georgia had a right to extend her laws over them, the intercourse law of Congress to the contrary notwithstanding. Sir, said Mr. D., I most heartily coincide with the President in this decision, and I am proud to be sustained by such eminent authority. It is true, we may differ about the mode of accomplishing the same object. In order to get rid of an act of Congress believed to be unconstitutional, the Legislature of Georgia passes an act extending her authority over the Indians within her limits; and the President tells the Indians that they must submit to its operation, all treaties or bargains to the contrary. This covers every principle contended for by the patriotic citizens of South Carolina; by this, an act of Congress, to use a common phrase, is nullified. In 1798, the pure days of democracy, the State of Kentucky was in favor of nullifying the alien and sedition laws. The resolutions passed on this subject are couched in plain language; they are said to have proceeded from the pen of Thomas Jefferson, the sage of Monticello, himself; let them speak for themselves. In these resolutions, the Legislature of Kentucky declare "that the Government created by the compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion,

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and not the constitution, the measure of its powers; but that, as in all other cases of compact, having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and manner of redress."

This subject was re-examined in 1790, and the resolutions previously adopted were re-affirmed; and it was then declared, that, "if those who administered the General Government should be permitted to transgress the limits fixed by the compact, by a total disregard of the special delegations of power therein contained, an annihilation of the State authorities, and the erection, on their ruins, of a general, consolidated Government, would be the inevitable consequence. That, by the principles of construction contended for by several of the State Legislatures, the General Government is the exclusive judge of the extent of the powers delegated to it; stop nothing short of the despotism; since the discretion of those who administer the Government, and not the constitution, would be the measure of their powers." "That the several States which formed that instrument, being sovereign and independent, have the unquestionable right to judge of its construction; and that the nullification, by these sovereignties, of all unauthorized acts done under color of that instrument, is the right remedy."

Sir, said Mr. D., Virginia responded to those resolutions, and the doctrines which they contain were re-asserted in an able report, which has ever since been the textbook of the republican party. If South Carolina has acted in any manner, on the subject of State authority, so as to incur the displeasure of Virginia or Kentucky, the offence evidently proceeds, said Mr. D., from the example set by these States. The issues of the controversy in that State, even admit that they have gone further than the Kentucky resolutions, prove that no danger is to be apprehended when a subject is openly investigated before the people. The principles of this Government are never in danger from an open, bold, and manly assertion of the rights either of the States or of the people. If ever this Government is subverted, it will be by indirect, insidious approaches, by secret conclaves, and treacherous machinations. The people of the South are too high-minded, chivalrous, and patriotic, to attempt any act which they may conceive their duty imposes on them, in secret, or under the cover of the shades of night. What they do, is done in the face of day. In all their public meetings they resolve that they are steadfastly attached to the Union; and their efforts are bent towards its preservation. It is a source of some amusement to hear the old federalists and Hartford convention men, with the parrot cry of disunion and nullification on their lips. They appear to have entirely forgotten the Hartford convention. In this memorable convocation, the seeds of treason and disunion were freely sown; and the time and manner selected for the occasion were congenial to a fruitful harvest. Their plots were all laid in private, with closed doors, and secrecy enjoined under the sacred obligations of an oath. One of these resolutions shows the character of the assembly, though it is to be expected that the most odious part of their proceedings has never yet been permitted to see the light. The resolution to which he alluded was couched in the following words: "The most inviolable secrecy shall be observed by each member of the convention, including the secretary, as to all propositions, debates, and proceedings thereof, until this injunction shall be suspended or altered." It is from proceedings of this character that danger is to be apprehended; and they are now mentioned, to show the reckless expedients to which some politicians will resort in order to obtain power. The judiciary of the Union, with that same reckless purpose, has given decision after decision, declaring the laws of the States unconstitutional and void. Not a single State, he believed, had escaped the nullifying spirit of this tribunal.

Kentucky has been made a victim by the prostration of her occupant laws. Under the 25th section, writs of error are now prosecuted from the decision of the supreme court of the State of Kentucky, with the view again to test the validity of these claims; and not only to vacate the law, but to vacate the decision of the court. To avoid consequences so injurious, and even destructive of the peace and harmony of the courts, the majority of the committee submitted the report now asked to be printed.

Mr. D. said, in conclusion, that he was in favor of nullification, so far as to remonstrate, either in convention, or by the State Legislature, against any act of usurpation, either by the General or State Governments. To an impartial people, seeking their own happiness in the manner which, to them, seems most suitable, matters of this character should at all times be submitted in an unsophisticated, unprejudiced, authentic shape. This cannot be better done than by the mode pointed out by Mr. Jefferson. He declares that "it is a fatal heresy to suppose that either our State Governments are inferior to the Federal, or the Federal to the State; neither is authorized literally to decide what belongs to itself, or to its copartner in government. In differences of opinion between their different sets of public servants, the appeal is to neither, but to their employers, peaceably assembled in convention." The doctrine, that the States are inferior to the General Government, Mr. D. said, he could not subscribe to. He had always acted with the republican party—his constituents were republicans of the school of '98, of the Jeffersonian stamp, and they knew how to appreciate those principles, and to estimate the motives of honest, fearless, patriotic men.

To the House, Mr. D. said, he was under obligations for the indulgence they had extended to him; and, in return, offered them his thanks for the favor and attention they had bestowed.

[That portion of the hour allotted for the consideration of resolutions, which was given to this subject each morning, obliged Mr. DANIEL to deliver the preceding remarks in detached portions, on several different days, but his speech is given here entire.]

#### DEFAULTERS.

Mr. WICKLIFFE laid on the table the following resolution:

*Resolved*, That the President of the United States be requested to communicate to this House the amount of each defalcation, and the names of the defaulters; the names and amount of each peculation upon the treasury, or fraudulent use of the public money by individuals in the employment of the Government; and the names of the person or persons concerned therein; the instances in which the public money has been misapplied or diverted from the objects for which it was appropriated by Congress; and, also, the amount of improper allowances to officers, agents, or others, in the public employment, made by any of the departments of the Government; the amount thereof, and to whom allowed, since the 3d day of March, 1825.

#### LAND OFFICES.

The House then resumed the consideration of the bill to establish a land office in the Territory of Michigan, the amendment of the Senate to provide for the establishment of an additional land office in the State of Indiana being under consideration.

Mr. WICKLIFFE submitted an amendment, to strike out part of the Senate's amendment, and to provide for attaching the lands in Indiana proposed to be formed into a new land district to the Fort Wayne district. The motion to strike out was declared to be not in order.

After a few remarks by Messrs. IRVIN, of Ohio, and HUNT,



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Mr. WICKLIFFE submitted the following amendment: "That all the lands to which the Indian title is extinguished, lying in that part of the State of Indiana which is east of the Lake Michigan, bordering upon the northern line of said State, and not attached to any land district, shall be, and is hereby, attached to the Fort Wayne district."

This amendment, after some discussion between Messrs. WICKLIFFE, DUNCAN, JENNINGS, TEST, and VINTON, was agreed to; and the bill, as amended, returned to the Senate for concurrence in the amendment.

#### MINISTER TO RUSSIA.

The House then resumed the consideration of the general appropriation bill—the question being on the proviso yesterday submitted by Mr. PEACER, and which was accepted by Mr. STANBURY as a modification of his motion to strike out the appropriation for the salary of the minister to Russia.

Mr. HUNTINGTON submitted the following amendment to the amendment of Mr. PEACER:

Strike out all after the word "time," and insert the following: [so that it would read, "Provided that the time"]

"Shall be deducted, in computing the salary or yearly compensation of any minister, during which he shall have absented himself from the country, by the Government of which he shall have been received, for objects not connected with the public service, and in pursuance of permission so to absent himself, given previous to the commencement of his mission, and in anticipation that such absence would be necessary."

Mr. HUNTINGTON said a few words in favor of his amendment.

Mr. ARCHER, of Virginia, next rose. He said he would make the most substantial acknowledgment in his power for the courtesy extended to him the preceding evening, by the utmost compression of what he had to offer. His peculiar excuse for offering any thing at this stage of the discussion, the House would not forget. This debate had the public for its mark, not the House. The missiles were forged and imbued with their venom here; but the House was only the medium to scatter them through the nation. The attack had been vehement on the Executive for the supposed abuse of one of its proper functions. It was due to justice that the case should be put on fair grounds; and if any thing had been omitted, or appeared to him to have been omitted, in this respect, Mr. A. said that he felt (from his position in the House) that he was placed in some degree of commitment to supply it. In his mode of discharging this office, he should probably meet exactly the views of the party or person. On the pretensions of Mr. Randolph, so much discussed, he should not add a word, nor a word of extenuation of the appointment. His object would be to prove that, whatever the defect of the one, or demerit of the other, the motion, in any of its forms, ought not to be sustained. Least of all, Mr. A. said, had he any design to mix in this conflict of asperity, which had made so large a part of the debate. He should be restrained by taste as well as former professions, from doing so. A large toleration was due to the exacerbations of party, and even personal contention in this House; but it appeared to him [Mr. A.] that there were extremes, which the credit of party required should be repressed. Whether an example had been afforded in the present instance, he should leave to others to pronounce, under his pledge to abstain from all participation of asperity.

The original motion proposed withholding the entire appropriation for the mission to Russia, as even expressive of dissatisfaction with the recent appointment of a minister. But the minister having accepted and gone out under his appointment, entitled by law to outfit, and sa-

lary to the legal termination of the mission, these could not be divested by our vote or action in any form. True, it happened that in this case the outfit has not been paid. A contract to pay was not of the less obligation. If paid, it would not be pretended that the disbursement could have been reclaimable, as made without authority. Thus, as regarded the prospective operation of the motion, no form could be given to it, to cut off the obnoxious minister, which would not at the same time cut off the entire mission—a result which no one desired, every person professed to deprecate. The error of gentlemen was in supposing that these effects could be separated. Give the motion any modification, yet this purpose could not be accomplished. We had to appropriate, or refuse, or reduce, or regulate the mode and forms of disbursement of the appropriation. Still we could not frame one grant in any way, to speak our disapprobation of the minister, without operation on the mission. Any denial, any retrenchment of allowances, must affect the successor, (supposing the knowledge of dissatisfaction to induce a new appointment,) no less than the incumbent. These gentlemen were carried beyond the mark they admitted to be proper by the motion. The amendments (in either form) were open to stronger objection and reprehension; still each of those proposed a proportionate limitation on the compensation, in the event of absence of the minister from his post. This would be planting in the statute book a stigma not confined to the obnoxious person, expressive of a distrust of common and decent fidelity in our diplomatic agents of every grade, which, surely, even party excitement would cease to regard with disapproval and regret.

The grounds of the motion were the unfitness of the late appointment, and the permission of absence from his post, of which the minister had availed himself. Were these grounds in any view adequate? Into the fact of unfitness, Mr. A. did not mean to inquire. Let it be assumed. Was it a warrant for the motion? The gentleman from Rhode Island [Mr. BRUNSWICK] had put it to his [Mr. A.'s] candor to say whether it had not been usual to stir debate of this character in this House. The inference was, that there was nothing improper in stirring this. He [Mr. A.] had neither said nor supposed that there was. Undoubtedly it was both competent and proper, in this House, to have inquiry, or raise debate, on any or every subject connected with national interest. Wherever it was competent to make inquiries and debate, opinion, formal as well as informal, might be expressed. But it did not follow that there might be action, and in any form, at pleasure, ensuring this opinion. The propriety of entertainment of a motion, or of debate on it, was a very different question from that of its adoption. If it were conceived that a disregard of public interest had been evinced, either in the appointment of the minister to Russia, or in his conduct in his mission, nothing could be more unquestionably proper than the expression of this sentiment in any mode which the forms of the House would admit. If the proposition were to go further than the expression of opinion, other questions must be presented, respecting the competence of action, the propriety, supposing it competent, and the force of it, supposing it proper. It would not be contested that the selection of diplomatic functionaries, belonging to the office of the Executive, would not be competent or proper to intrude on this function. If, in any instance, the House should use the instrumentality of one of its proper functions for such a purpose, this would be an abuse. This proposition would not be contested. Suppose, then, the adoption of the present resolution was to have the desired effect of producing the supercession of Mr. Randolph, would this be a legitimate exercise of our authority over appropriation? If it would, upon the best founded grounds of disapproval, we might force the dismissal of this minister. What

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was to obstruct the employment of the same means for accomplishing the same purpose in every case of diversity of opinion from the Executive? And, if this might be done, what became of the substantial and real, though not nominal, office, of "appointing ambassadors, other public ministers, and consuls?" Would it belong to the Executive, to which it had been confided by the constitution expressly, or to the House, from which it had been withheld?

The question on this part of the subject went beyond the point of the House, exerting an indirect control over the appointment of ministers. It might be pushed to the point whither the control might be exerted even over the missions themselves. It might be said that the right, on the part of the Executive and Senate, to depute diplomatic agents, gave an exclusive discretion as regarded the whole subject of the fitness of missions, as well as ministers, and that the House was bound to give effect to this discretion when the exercise of its power of appropriation was demanded for the purpose. Without intending, Mr. A. said, to intimate any concurrence of his own opinion with this doctrine, he must be permitted to observe, that it stood on stronger ground in this than the related case of treaties, in which it had been the subject of so much debate at different times. It had been held by a very large class of our politicians, that as the treaty-making power rested with the Executive and Senate, the obligation to give effect to the clearly expressed admitted functions of the other departments forbade the denial of appropriations for the execution of treaty stipulations. On the other hand, the subjects on which the provisions of treaties could be made to operate, belonging, in nearly the whole mass of cases, to the concurrent jurisdiction of Congress generally, with the treaty-making power, it might with reason be contended that the discretion of Congress, though controlled, was not extinguished by the exercise of the correlative authority by the President and Senate. But, in the present case, of the power of the Executive and Senate to send missions, there was no pretence of a concurrence of jurisdiction, from which the inference of a right to exercise a check on this function could be assumed. The case, therefore, Mr. A. repeated, was stronger in favor of the doctrine that the House was excluded from discretion as regarded the denial of appropriations in this case of missions, than in the case of treaties. He did not mean to profess his concurrence with the doctrine in either case. He believed, however, that, in either case, the abuse of discretion on the part of the Executive and Senate should be extreme, to authorize the interposal of our restraining and protective jurisdiction. That we were competent to the exertion of such an office, he did not doubt. But that its proper and legitimate character was protective only, and that any extension beyond this character would be an abuse, was as little to be doubted. The protective authority, too, was over the mission. It could not be legitimately pushed to a surveillance on the President and Senate, as regarded the fitness of their selections; unless, indeed, the abuse of their discretion, in this respect, was so flagrant or continued as to bring the case within the operation of the principle stated, and to justify the putting down the mission itself, as rendered mischievous or abortive. Then the rightful control over the mission—over the continuance of the relations in which the appointment of the minister was founded, might produce the annulment of the appointment incidentally, which, as a purpose sought directly and independently, would certainly be unauthorized. Whilst, then, the House would not be justified in denying or limiting the appropriation in this case, for the mere purpose of getting at the dismission of Mr. Randolph, if it thought that his appointment was of such a character as to frustrate all beneficial purpose in keeping open diplomatic relations with Russia, undoubtedly duty would require, as well as right permit, that the motion in

its strongest form should be acceded to. The appropriation, however, could only be denied under this extent of responsibility; for the Executive could not be bound to understand, in the refusal of an appropriation, that nothing more was involved than objection to a particular minister, and a design to get rid of him, not the assertion of any principle of policy; nor would there be any constitutional obligation to respect this objection, if it were understood.

So much for the ground of the motion resting on the unfitness of the appointment of Mr. Randolph. This had been the main ground—the topic most insisted on in the early stage of the debate. The gentleman from Rhode Island, however, who figured so conspicuously in the discussion, [Mr. BURGESS,] on the last day he had addressed the House, had introduced another topic, which much enlarged the scope of his attack. He now rested principally on a doctrine which might be regarded as extraordinary even for this anomalous debate. He insisted that the motion ought to be sustained, on account of the mission being an illegal one; alleging, very truly, that we were not bound to appropriate for an illegal mission. The first impression produced by this suggestion, Mr. A. said, was, that as it could not be intended, so it ought not to be treated seriously. The fact must not be allowed to escape from memory, however, that this discussion was peculiar and out of rule in its policy as well as conduct. Things must be in it, which in a common debate might be passed by. The adroitness and undisputed talents of the honorable gentleman from Rhode Island might give a color to his strange proposition, rendering it specious to persons not familiar with this class of subjects.

The gentleman had professed his ability to sustain it by authorities of public law. He had said he had them with him in the House. His exhaustion from bad health had not, however, permitted him to read, or even to refer to them by titles. Those who followed in the debate must, therefore, be exposed to some difficulty in encountering the allegation. The general proposition from which the gentleman started, was too elementary to require confirmation from authority. He stated truly that legations of embassy of every class being institutions of the law of nations, must conform in their modes and conduct to the requirements of this law to be valid, so as to draw after them the immunities which it attached. No proposition could be less contestable. The room for its application, not its correctness, constituted the difficulty. It was admitted freely, that the mission in this instance must be consonant in its character and form with the requisitions of public law, to be valid; and that, if not valid, we stood dispensed from any obligation to make provision for it. In what respect, then, was it wanting in this conformity? The nomination had been made and confirmed in pursuance of the usual forms. This much was not disputed. The appointment was alleged, however, to have been accompanied with a condition, which operated as a clause of defeasance, vacating the mission by incongruity. And what was this? It was found in the permission which had been granted to Mr. Randolph to absent himself from St. Petersburg.

Now, it must be observed, that though it had been true that Mr. Randolph had been guilty of irregularity of conduct to the full extent charged on him, still, on the principle assumed, the proposition would not be sustained that the mission stood vacated. It was the irregularity of the permission which was fraught with this effect, and the effect must attach if the principle were well founded, though no practical irregularity had followed. It would not be sufficient that Mr. Randolph had really established his domicile in England, not Russia, if this had been done in abuse, and not in pursuance, of his permission. This would constitute a case demanding a recall on the termination of his mission, but not operating its defeasance, *ab*

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*initio*, or from the time of the grant of the unlawful and annulling condition, which was the principle contended for. It was from the extent of the permission, then, that the measure of legality of the mission was to be taken. Where were we to look for this extent? The exclusive source of our knowledge on this subject, as regarded the existence as well as extent of the permission, was in the message of the President, disclosing it. What did this say? That the President regretted to inform the House that our minister lately commissioned, &c. had "been compelled, by extreme indisposition, to exercise a privilege which, in consideration of the extent to which his constitution had been impaired in the public service, was committed to his discretion—of leaving, temporarily, his post for the advantage of a more genial climate." The assertion of the avoidance of the legality of the mission by this privilege could only be made in the view of its authorizing the residence of Mr. Randolph elsewhere than in Russia. We knew the extent of the concession, only from the message, and from this we learned that the allowance of absence was contingent only; and to be confined by the duration of the exigency, in which the resort to it had been authorized. How different from the assumption which the argument for the invalidity of the appointment required.

This argument was as little founded in principle, as in the application which had been attempted of it. The real principle on the subject was, that a minister once received, the regularity of his residence at the court to which he was deputed was a question for his own Government. If an irregular residence should be regarded by the Government receiving him in the light of disrespect, it would be a fair subject of representation in that view to his own Government, and that was the worst result with which it could be attended.

If an irregular residence was attended with the effects which had been ascribed to it, in this instance, what became of the case, not of unfrequent occurrence, of resident ministers sent on another service of indefinite duration? This had frequently occurred with our own ministers. Did they lose their caste, suffer impairment of their immunities, or require new credentials or reception on their return? What, in the same view, became of the cases in which the same minister might be accredited to more courts than one at the same time? There was nothing in principle to forbid this, and there might be a great deal of inconvenience to demand it. If one minister would be sufficient for our occasions with all Europe, why should we have more? Yet, irregular residence would be unavoidable: where several small courts were contiguous, an arrangement of this kind might be of the highest convenience. Suppose our own confederacy disjoined, must foreign Governments be compelled to support a diplomatic agent at each, or to have no diplomatic relations with those at which no agent was maintained? Or, might the arrangement be resorted to, which was now sometimes employed for consuls, of employing, if need be, the same for more States than one? Convenience usually demanded constant residence near the seat of Government of the Power to which the minister was accredited; and absence from the country, unless on special occasions, or for brief periods, would of course be absurd as subversion of the purposes of the mission. But there was no rigorous principle in this respect; convenience governed usage. In our own country, it had been a good deal the practice of the foreign ministers, and was at this time, to reside elsewhere than at Washington. There had been instances in which, if he [Mr. A.] was not mistaken, the visit had not been paid to the seat of Government for years, or, in any event, had been paid very rarely. Yet this practice furnished no occasion of discontent. It would be disused, undoubtedly, if it did. If Mr. Randolph were to fix his residence at Moscow, he would fall

within the principle of this usage; yet he would be situated more inconveniently than at London, where he now was, for the purposes of his mission.

Permissions of the character of that granted to Mr. Randolph, and absences under them, of longer duration than his had been, were in the most ordinary course of diplomatic transactions. The occasions were various—for attention to personal affairs, for health, for recreation. Leave was not, necessarily, requisite, so much was this mode of proceeding in the common course. Mr. Adams, the elder, and Mr. Jefferson, when our ministers at the courts of St. James's and Versailles, passed and repassed, as occasion demanded, at will, between London, Paris, and the Hague. Mr. Jefferson made two excursions of recreation, or rather of instruction, (for with him time was in no way allowed to pass unprofitably,) the one into Germany; the other, as well as he [Mr. A.] recollected, into Italy. No leave appears to have been deemed requisite, as the absences were short. If Mr. Randolph, finding himself so much out of health as to demand a change of climate, had absented himself without leave, no clamor would probably have followed. It was the leave obtained in anticipation of the casualty, which was made the occasion of clamor. Yet a precedent equally in point, of which the gentleman from Rhode Island did not appear to be aware, was furnished, at a period to which the gentleman would not be prone to state exception. In the administration of Mr. Monroe, when the Department of State was in the charge of Mr. Adams, Mr. Forsyth received, coterminously with his appointment, and carried out with him, a permission to return home, immediately on the exchange of the ratifications of the treaty which had just been signed, and the ratifications of which were expected to have been exchanged immediately. Owing to delay in this event, Mr. Forsyth was prevented from availing himself of the permission as early as he had designed. But he did avail himself of it, by returning to this country for his family, where he remained six months. Who had thought of making this matter of imputation, or that the salary of Mr. Forsyth ought to have been curtailed on this account? In the administration of Mr. Adams, one of our diplomatic functionaries remained at home several months, not less than six, after the acceptance of his appointment, waiting a return of a season of health in the country of his destination. The salary was received from the time of his acceptance, yet no clamor was awakened, as we have heard in the case of Mr. Randolph.

The gentleman from Rhode Island, [Mr. BURGESS,] by way of fortifying his proposition, that Mr. Randolph's appointment had become invalid, insisted that he was divested of his diplomatic privileges in his present situation. These privileges, he [Mr. B.] maintained, could attach nowhere but in the country to which the minister was sent. The proposition, if just, was not material in the discussion. But it was not just. Mr. Randolph did not stand divested of his privileges. These privileges did not attach only in the country to which he was sent. Mr. Randolph possessed in his present sojournment the personal inviolability on which the gentleman had dilated so much. A minister furnishing evidence, by passport, either by surety, &c. of his public character, not by courtesy merely, but the universal usage which made the law of nations, had extended to him, in countries in which he made transient sojournment, the same assurance of personal inviolability, that he would be entitled to rigorously, in the country to which he was accredited. He had more than this by the modern usages. He would be exempted from the operation of quarantine or blockade. And he [Mr. A.] would venture to affirm, that the effects of Mr. Randolph in entering England (as they would in departing) had been exempt from all search or duty. If diplomatic immunities were only of force in the country to

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*Insolvent Debtors.—Internal Improvements.*

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which the functionary was accredited, where would be the safety for ministers in the transit to and from the places of their destination? And, if this security were wanting, how could intercourse and relations of diplomacy subsist with interior nations; that is to say, such as, not being accessible by sea, could only be reached through the territories of others? It was in early and barbarous times only, that the principle by which the security was guaranteed had not been recognised. It was not true, as the gentleman from Rhode Island had supposed, that the murder of the French envoys, in the time of the Emperor Charles V, supposed to be by his instigation, was not regarded as a breach of the law of nations. Vattel calls it expressly an atrocious violation. Nor is it any evidence to the contrary, that, owing to the disjointed condition of the times, and the ascendant influence of Charles, the indignation of Europe was only partially expressed. This view of the subject Mr. A. repeated, however, had no material relation to the subject. He should, therefore, pass it by, with some other remarks of the gentleman which he had noted for observation.

On review of the grounds assigned for the motion, they had appeared in every respect inadequate, even if they had been sustainable in fact. Had the spirit of party mingled, then, in this proceeding? This spirit was prone to run into excess, when not kept in restraint by the controlling influence of public opinion, to which appeal was made in the present instance. To the result of that appeal, he was willing, Mr. A. said, to submit the decision on the motion; not doubting that, as it would meet rejection in the House, it was equally destined to encounter the sentence yet more severe, and to which we were disposed to pay higher respect—the censure of our constituents.

Mr. TUCKER then, after a few remarks against spending further time on this subject, to the injury of the other public business, moved the previous question.

The motion being seconded, 73 to 33—

Mr. CONNER moved a call of the House, but the motion was negatived.

The question was then put on the previous question, viz. "Shall the main question be now put?" and was decided in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Alexander, Alston, Anderson, Armstrong, Barringer, Baylor, Jas. Blair, Bockee, Boon, Borst, Bouldin, Brodhead, Brown, Buchanan, Chandler, Claiborne, Clay, Coleman, Conner, Craig, Crawford, Crochecon, Daniel, Davenport, W. R. Davis, Deberry, Denny, Desha, De Witt, Dorsey, Draper, Duncan, Dwight, Earll, Joshua Evans, Findlay, Ford, Fry, Gilmore, Gordon, Green, Hall, Halsey, Hammons, Harvey, Hemphill, Hinds, Holland, Hoffman, Howard, Hubbard, Ihrie, William W. Irvin, Richard M. Johnson, Cave Johnson, Kennon, Perkins King, Adam King, Lamar, Lecompte, Lent, Lewis, Loyall, Lumpkin, Lyon, Magee, Marr, Martin, T. Maxwell, Lewis Maxwell, McCreery, McCoy, McIntire, Mitchell, Monell, Overton, Patton, Pettis, Polk, Potter, Ramsey, Rencher, Roane, Russel, Sanford, Scott, Wm. B. Shepard, Aug. H. Shepperd, Shields, Sill, Smith, Speight, Ambrose Spencer, Richard Spencer, Sprigg, Standefer, Stephens, Sutherland, Wiley Thompson, John Thomson, Trezvant, Tucker, Varnum, Verplanck, Wayne, Weeks, Campbell P. White, Wickliffe, Wilde, Wilson, Yancey.—112.

NAYS.—Messrs. Angel, Archer, Arnold, Bailey, Barnwell, Bates, Beckman, Bell, Cahoon, Cambreleng, Campbell, Childs, Chilton, Clark, Condict, Cooper, Coulter, Cowles, Crane, Crockett, Creighton, Crowninshield, Drayton, Eager, Ellsworth, Geo. Evans, Horace Everett, Finch, Foster, Grennell, Gurley, Hawkins, Hodges, Hughes, Hunt, Huntington, Ingersoll, Thomas Irwin, Jarvis, Johns, Kendall, Kincaid, Lea, Leavitt, Letcher, Martindale, Mercer, Miller, Muhlenberg, Pearce, Pierson, Reed, Rose, Semmes, Stanbery, Sterigere, H. R.

Storrs, W. L. Storrs, Strong, Swann, Swift, Taylor, Test, Vance, Vinton, Washington, Whittlesey, Edward D. White, Williams, Young.—70.

The main question (on the third reading of the bill) was accordingly put, and carried without a division, and the bill was then, on motion of Mr. VERPLANCK, read a third time.

Mr. CONNER called for the yeas and nays on the passage of the bill, and they were ordered by the House.

Mr. WICKLIFFE moved a call of the House. The motion was negatived.

Mr. CHILTON rose to remark that the bill contained a feature exceptionable in the extreme. He would, however, vote for the bill; and he presumed other gentlemen would do the same, as it was the general appropriation bill.

Mr. BATES, after a few remarks, moved the recommitment of the bill to the Committee of Ways and Means, with instructions to strike out the word Russia from the 349th line of the bill, and to provide, at the end of the paragraph, for the salary of a minister to Russia. On this motion Mr. B. demanded the yeas and nays, and they were ordered.

Mr. STERIGERE demanded the previous question; and the demand was sustained by the House.

Mr. BATES then called for the yeas and nays on the motion for the main question; but the House refused to order them.

The House having determined that the main question should now be put,

The question was finally taken on the passage of the bill, and decided in the affirmative, by yeas and nays—yeas 115, nays 3.

So the bill was passed, and sent to the Senate.

#### INSOLVENT DEBTORS.

It was now half past four o'clock, and the House was about to adjourn; when

Mr. BUCHANAN rose, and said that he was about to ask a favor of the House, which would probably be the last he should ever ask of it. It was to indulge him so much as to go into Committee of the Whole on the state of the Union, and to take up the bill for the relief of certain insolvent debtors of the United States. He had had the bill in charge for two years, and during all that time the parties interested had, with excited feelings, been looking for its passage. After a few other remarks, in which Mr. B. made a feeling appeal to the House, in favor of taking up the bill,

The House resolved itself into a Committee of the Whole, Mr. DWIGHT in the chair, and took up the bill.

Mr. BUCHANAN submitted an additional section, appropriating five thousand dollars to carry the provisions of the bill into effect; which was agreed to. The committee then rose, and reported the bill as amended; and

The House adjourned.

THURSDAY, FEBRUARY 10.

#### INTERNAL IMPROVEMENTS.

Mr. HEMPHILL, from the Committee on Internal Improvements, to which was referred so much of the message of the President of the United States at the commencement of the present session as relates to that subject, made a report thereon, and moved that it be committed and printed. [See Appendix.]

The report embraced a full reply to the opinions announced in the Executive message on the subject of internal improvement, and concluded with the following resolution:

*Resolved*, That it is expedient that the General Government should continue to prosecute internal improvements, by direct appropriations of money, or by subscriptions for stock in companies incorporated in the respective States.

H. OF R.] *Baltimore and Washington Railroad.—Extension of a Patent.—Susan Decatur et al.* [FEB. 11, 1831.]

Mr. HAYNES called for the reading of the report. The Clerk having progressed at some length,

Mr. CHILTON moved to suspend the further reading, and that the report lie on the table, and be printed.

After a few remarks between Messrs. WICKLIFFE, CHILTON, and the CHAIR, as to a point of order,

The Clerk resumed the reading of the report; when, Mr. McDUFFIE moved to suspend the further reading.

[Here arose a discussion between Mr. McDUFFIE, the CHAIR, and Messrs. MERCER, SUTHERLAND, and WICKLIFFE, as to the correctness of the motion of Mr. McDUFFIE. It was insisted, on the one side, that when a motion or resolution was being read the first time, it was not in order for a member to move to suspend the reading. On the other hand, it was asserted that, by a rule of the House, "when the reading of a paper" was "called for, and the same objected to by any member, it should be determined by a vote of the House." Former decisions in the case were also referred to; and the decision of the Chair, that the motion was not in order, was appealed from. Mr. MARTIN was temporarily in the chair to-day. To save time, Mr. HAYNES withdrew his motion for the reading.]

The report was then ordered to be committed, and the usual number of copies directed to be printed.

Mr. VANCE moved for the printing of six thousand additional copies; which motion, by a rule of the House, laid over till the next day.

#### BALTIMORE AND WASHINGTON RAILROAD.

This being the day set apart for District business, Mr. DODDRIDGE moved that the House take up the bill to authorize the extension, construction, and use of a lateral branch of the Baltimore and Ohio railroad, into and within the District of Columbia.

Mr. DORSEY stated that a portion of the delegation of Maryland was placed in an embarrassing predicament on this bill. They did not wish to do any thing which might endanger the bill; but the Legislature of Maryland had now before it a proposition to construct a railroad from Baltimore to Washington, by the State funds; and it would seem respectful for the members from Maryland to wait the action of the State Legislature on the subject. A portion of the delegation had therefore conferred together, and agreed to move a postponement of the bill for a few days.

Mr. HOWARD opposed the motion very earnestly, and stated the nature of the bill which was now before the Legislature of Maryland, to show the improbability that the proposition would result in the work being undertaken by the State. At his request, Mr. DORSEY, for the present, withdrew his motion; and

The House took up the bill and the amendments reported thereto by the Committee for the District of Columbia.

[Considerable discussion took place on the amendments, in which Messrs. HOWARD, DODDRIDGE, WASHINGTON, SEMMES, BROWN, MERCER, HOFFMAN, and McDUFFIE, took part.]

The remainder of the sitting was spent on the District bills.

FRIDAY, FEBRUARY 11.

#### EXTENSION OF A PATENT.

Mr. DANIEL, from the Committee on the Judiciary, reported the bill from the Senate, to extend the patent of Samuel Browning for a further period of fourteen years, without amendment, and moved its third reading at this time.

Mr. BUCHANAN opposed this motion, and moved that the bill be referred to a Committee of the Whole, and made the order of the day for to-morrow.

Mr. DANIEL preferred that it should be postponed to a particular day, as he was decidedly of the opinion, if it once got into a Committee of the Whole, it was the last we should hear of it this session. It was a bill, the provisions of which, Mr. D. thought highly important to the interests of the community as well as the individual for whose benefit it was brought up; and it ought to be acted on promptly. In order to meet the views of the gentleman from Pennsylvania, [Mr. BUCHANAN,] and at the same time not to endanger the bill, he moved to postpone its further consideration till Tuesday next. He would further state, that the discovery of Mr. Browning was a new mode of separating iron from its impurities; it would be seen, therefore, by every member that it was a bill of general importance.

Mr. BUCHANAN said that the patent which this bill sought to extend had expired two years ago, and now, after the discovery had been public property during that time, an attempt is made to revive the patent. He could only say that the case had no parallel in the legislative history of Congress, while he had the honor of a seat in it.

Mr. DANIEL replied: The case differed from others, it was true, but the public was not yet in possession of the discovery; the process was not understood; and there was only one machine in the United States, by which the practicability of the discovery could be tested; and that machine had fallen into the hands of a gentleman of fortune, after the time for which the patent right was originally granted had expired. This gentleman was totally ignorant of the mode by which the operation was to be carried on; and in his zeal to secure the advantages that must result to the nation from the invention, he searched out the inventor, and found that the machine under his management answered all the purposes which its inventor set forth.

After some remarks from Mr. DAVIS, of South Carolina, and Mr. EVANS, of Maine,

Mr. CONNER moved to lay the bill on the table; which motion was agreed to—yeas 82, nays 39.

#### SUSAN DECATUR ET AL.

Mr. McDUFFIE moved that the House do proceed to the consideration of the bill to compensate Susan Decatur, widow and legal representative of Captain Stephen Decatur, deceased, et al.

Mr. WHITTLESEY called for the yeas and nays on consideration, and they were ordered by the House. Being taken, they stood—yeas 102, nays 82.

So the House determined now to consider the bill.

The question was stated from the Chair to be on the amount of compensation with which the blank should be filled; when

Mr. WILLIAMS moved a call of the House.

The motion was negatived—58 to 76.

Mr. HOFFMAN, after a few remarks, moved to recommend the bill to a Committee of the Whole for this day.

Mr. MILLER moved its commitment to a Committee of the Whole for to-morrow; and the question being put on this motion, it was determined in the negative.

The motion of Mr. HOFFMAN was then agreed to, and the House went into committee, Mr. CAMPBELL in the chair, and proceeded to the consideration of the said bill.

[Considerable discussion took place between Messrs. HOFFMAN, POTTER, TUCKER, ELLSWORTH, STORRS, of New York, CROCKETT, CHILTON, McDUFFIE, DODDRIDGE, CRAIG, and BARRINGER, not only as to the sum to be appropriated, but on the merits of the claim; allusions were also made to what was called the improper interference of the President in favor of the claim. So much, however, has already been reported in both Houses of Congress, on the subject of this claim, that it is considered unnecessary to report what was said to-day. In the course of the discussion a letter from



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*Indian Affairs—Question of Order.*

[H. OF R.]

Mrs. Decatur was read, detailing her present distressed situation, and appealing to Congress, in very strong and eloquent terms, for relief.]

A motion to fill the blank with the sum of one hundred thousand dollars, was agreed to.

Some conversation then took place as to the proper mode of distribution of the sum appropriated between the surviving officers and crews and the legal representatives of the parties concerned, in which Messrs. STORRS, of New York, HOFFMAN, MALLARY, SPEIGHT, and McDUFFIE, took part. It was eventually decided that the words of the bill of the last session, to distribute the sum agreeably to the provisions of the prize act, should be stricken out.

Mr. MILLER then submitted an amendment, to give to the nieces of Commodore Decatur ten thousand dollars of the sum.

After some remarks by Messrs. HOFFMAN, CARSON, BARRINGER, CRAIG, SUTHERLAND, DODDRIDGE, STORRS, of New York, and McDUFFIE, and the reading of the will of Commodore Decatur,

Mr. WHITTLESEY moved that the committee rise, and that the bill and various amendments be printed, so that there might be some understanding of the provisions proposed to be adopted. The motion was negative.

Mr. MILLER then modified his motion so as to confine the donation of ten thousand dollars to two nieces of Com. Decatur, daughters of Mr. McKnight; and the question being put upon the motion, it was determined in the negative—yeas 75, nays 81.

Mr. BUCHANAN then moved that the committee rise, and report the bill to the House, as amended. The motion prevailed.

In the House the amendments were agreed to; which provided for paying the boat's crew, adopted at the last session, and that adopted to-day for filling the blank in the bill with one hundred thousand dollars.

Mr. STORRS, of New York, demanded the yeas and nays on agreeing to the amendment striking out the clause for paying the parties concerned, agreeably to the provisions of the prize act; and they were ordered.

After some remarks by Messrs. CLAY, STORRS, of New York, HOFFMAN, and HUNTINGTON, the question was put, and decided in the affirmative—yeas 97, nays 58.

Mr. WILDE then demanded the previous question, and Mr. DRAPER moved an adjournment; which motion was decided in the negative—yeas 59.

The House having seconded the demand for the previous question,

On the question, "Shall the main question be now put?" it was determined in the affirmative.

The main question was then put, as follows:

"Shall the bill be engrossed for a third reading?" and determined in the negative, as follows:

YEAS.—Messrs. Anderson, Arnold, Baylor, Beckman, Brodhead, Brown, Buchanan, Cambreleng, Campbell, Carson, Clay, Coleman, Condict, Coulter, Craig, Crocheron, Crowninshield, Warren R. Davis, Deberry, Denney, Dickinson, Drayton, Dwight, Eager, Earle, Joshua Evans, Edward Everett, Finch, Ford, Forward, Fry, Gilmore, Gordon, Green, Halsey, Hawkins, Haynes, Hinds, Hodges, Hoffman, Howard, Hubbard, Ingersoll, Thomas Irwin, Jarvis, Jennings, R. M. Johnson, Cave Johnson, Lea, Leiper, Lent, Mallary, Marr, Martin, Thomas Maxwell, McCreery, McDuffie, McIntire, Mercer, Mitchell, Muhlenberg, Nuckolls, Patton, Overton, Pettis, Polk, Potter, Sanford, Scott, Sterigere, Stephens, Taliaferro, Varnum, Verplanck, Washington, Weeks, C. P. White, E. D. White, Wickliffe, Wilde, Wilson.—81.

NAYS.—Messrs. Alexander, Allen, Alston, Angel, Armstrong, Bailey, Noyes Barber, Barnwell, Barringer, Bates, James Blair, John Blair, Bockee, Bouldin, Ca-

hoon, Childs, Chilton, Claiborne, Clark, Coke, Conner, Cooper, Cowles, Crane, Crawford, Crockett, Creighton, Davenport, John Davis, Desha, Doddridge, Draper, Duncan, Ellsworth, George Evans, Horace Everett, Findlay, Gaither, Grennell, Hall, Hammons, Harvey, Hughes, Hunt, Huntington, Ibrie, Irvin, Johns, Kendall, Kincaid, Perkins King, Lamar, Leavitt, Leconte, Letcher, Loyall, Lumpkin, Lyon, Martindale, Lewis Maxwell, McCoy, Miller, Pierce, Pierson, Ramsey, Rencher, Roane, Russel, Aug. H. Shepperd, Shields, Sill, Speight, Sprigg, Standefer, Henry R. Storrs, Strong, Sutherland, Swann, Swift, Taylor, John Thomson, Trezvant, Tucker, Vance, Vinton, Whittlesey, Williams, Yancey, Young.—89.

So the bill was rejected.

Mr. STORRS, of New York, moved that, when the House adjourns, it do adjourn to Monday; and said he made the motion on account of the two or three hours' darkness that would occur to-morrow: whereupon,

Mr. WHITTLESEY moved that the House do now adjourn; but withdrew it, to give an opportunity for Mr. DODDRIDGE to move a reconsideration of the bill just rejected, with a view also to move a reconsideration of the last amendment agreed to. Pending which motion, another was made to adjourn; and

The House adjourned.

SATURDAY, FEBRUARY 12.

Soon after the House met, the eclipse of the sun creating considerable gloom within the hall, (although far from being dark enough to require candles,) an adjournment was moved by Mr. DWIGHT, and was carried—yeas 86, nays 77.

MONDAY, FEBRUARY 14.

#### INDIAN AFFAIRS—QUESTION OF ORDER.

The petition laid on the table by Mr. EVERETT, of Massachusetts, last Monday, from sundry citizens of Massachusetts, praying the repeal of the Indian law of last session, &c., was announced by the Chair as now before the House for disposal.

Mr. EVERETT rose, and was proceeding to address the Chair; when

Mr. TUCKER, of S. C., interposed; and demanded that the question of "consideration" be put, and the Speaker announced this to be the question.

[This question precludes debate on any motion, unless the House decides in favor of its consideration.]

Mr. LUMPKIN demanded the yeas and nays on the question of "consideration;" and they were ordered.

Mr. EVERETT said it was with great regret he was obliged to say that he considered the demand for the question of consideration out of order; the petition had been received by the House, and, if this motion were entertained by the Chair, it would cut off all debate on the petition, which Mr. E. said he had a right to discuss, on presenting it, if he thought proper.

The SPEAKER said the House had a right to decide whether it would consider the gentleman's motion—it had a right to refuse to receive the petition itself.

Mr. EVERETT. But the House has received the petition. Mr. SPEAKER.

The SPEAKER said the petition had been received and laid on the table; that the House had a right now to say whether it would consider the gentleman's motion touching its reference, and therefore the demand for the question of consideration was in order; and he proceeded to refer to the rules, and explain his construction of them, to show the propriety of his decision.

Mr. VINTON moved a call of the House, which was agreed to; and the Clerk having called the roll of the members, and the attendance appearing to be pretty full, further proceeding in the call was suspended.

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Mr. BELL asked, if the House decided in favor of "consideration," what time would the discussion be in order—could it be continued from day to day, or would it be limited?

The SPEAKER replied, it could only be continued to day, and the next days on which the presentation of petitions would be in order, (namely, on Monday alone.)

Mr. EVERETT again rose, and said he felt himself under the necessity of appealing from the decision of the Chair, on the correctness of entering the demand for the question of consideration; and he proceeded in support of his appeal at some length—arguing that this was no motion or proposition offered to the House, but simply a petition from a portion of his constituents, which they, in the exercise of their constitutional right, had presented to the House through him, their representative. He had laid it on the table, under the rule; it came up to-day as a matter of course; its consideration required no motion, and he had made none; the matter before the House was the petition itself, and to that he had a right to speak; it was a constitutional right to which the rule of consideration could not apply, and could not eat off. It was with unfeigned reluctance he made the appeal, but a sense of duty constrained him to do so.

Mr. TUCKER, in a few remarks, defended his call for the question of "consideration," and his motive for making it. His object was to save the time of the House from being wasted in a useless debate.

The SPEAKER then rose, and, after stating the case, read the rules in point, which he explained at some length, to show the correctness of his decision in entertaining the demand for "consideration." He referred particularly to the fifth rule, which is as follows: "When any motion or proposition is made, the question, 'Will the House now consider it?' shall not be put, unless it is demanded by some member, or is deemed necessary by the Speaker." During the whole time while he had presided in the chair, he had never exercised the privilege of requiring the question of consideration; it was now required by another member, and he had no right to refuse it, it being in order under the rule.

Mr. WAYNE asked if he was to understand that the motion of the gentleman from South Carolina [Mr. TUCKER] was in order before the gentleman from Massachusetts [Mr. EVERETT] had submitted any proposition.

The SPEAKER replied, that he considered there was, virtually, a motion before the House, on taking up the petition for disposal.

Mr. WAYNE thought that did not follow of course. The gentleman from Massachusetts had not submitted any proposition relative to the petition; and, until he did that, the House could not know what his motion would be, or decide whether they would consider it. The House would be voting in the dark. He maintained that the SPEAKER would be right, had the gentleman made any motion for the disposition of the petition, but at present the demand of "consideration" he thought premature.

Mr. TUCKER then withdrew his call for the question of consideration.

Mr. EVERETT said it was his intention to debate the petition which he had presented to the House; and when the SPEAKER decided that he could not do so, he denied a right which was sanctioned by the practice of the British Parliament, and was sanctioned by the practice of this House. During the last war, many important questions were debated on the presentation of petitions.

The SPEAKER. There must still be a motion before the House to authorize debate.

Mr. EVERETT. If I am entitled to the floor [several members were attempting to address the Chair] I will then submit a motion before I sit down.

The SPEAKER. It is in the power of the Speaker, or of any member, to require that every motion be reduced

to writing, and the Speaker requires that the gentleman send his motion to the Chair in writing.

Mr. EVERETT accordingly sent to the Chair the following motion:

That the said memorial be referred to the Committee on Indian Affairs, with instructions to report a bill making further provision for executing the laws of the United States on the subject of intercourse with the Indian tribes; and, also, for the faithful observance of the treaties between the United States and the said tribes.

The motion having been read,

Mr. WICKLIFFE demanded that the question be put on the "consideration" of the motion. He had no idea of commencing another Indian war at this period of the session.

Mr. CONDUCT called for the yeas and nays, and they were ordered; and the SPEAKER having stated the question,

Mr. EVERETT said, if he understood the Chair that it was in order to preclude debate on his motion, by the question of "consideration," he must appeal to the House from the decision of the Chair.

The yeas and nays were ordered on the appeal.

Considerable debate now ensued on the appeal, which, as it cannot be reported fully, is not attempted at all; the preceding outline being sufficient to show the reader the nature of the points which arose, and the course of proceeding on them, which is all that is intended by the sketch. The appeal was supported by Mr. EVERETT and Mr. BATES, of Massachusetts, and it was opposed, and the decision of the Chair defended, by Mr. WAYNE and Mr. THOMPSON, of Georgia. Finally,

Mr. EVERETT said, yielding to the wishes of several of his friends, he would withdraw the appeal, and meet the question at once.

The question was then put—"Will the House now consider the motion?" and was decided in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Angel, Archer, Armstrong, Bailey, N. Barber, Barnwell, Barringer, Bartley, Bates, Beekman, Bell, Buchanan, Burges, Butman, Cahoon, Cambreleng, Campbell, Childs, Chilton, Clark, Condict, Cooper, Cowles, Crane, Crawford, Crockett, Creighton, Crowninshield, John Davis, W. R. Davis, Deberry, Denny, Dickinson, Doddridge, Dorsey, Dudley, Eager, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Finch, Forward, Fry, Grennell, Gurley, Hemp-hill, Hodges, Hughes, Hunt, Huntington, Ihrie, Johns, Kendall, Kincaid, Adam King, Letcher, Mallary, Marr, Martindale, Lewis Maxwell, McCreery, Mercer, Miller, Nuckolls, Pierson, Ramsey, Randolph, Reed, Richardson, Rose, Russel, William B. Shepard, Aug. H. Shepperd, Sill, Smith, A. Spencer, Stanbery, H. R. Storrs, William L. Storrs, Strong, Sutherland, Swann, Swift, Taliaferro, Taylor, Test, John Thomson, Tracy, Vance, Varnum, Verplanck, Vinton, Washington, Whittlesey, Campbell, P. White, Williams, Wilson, Young.—101.

NAYS.—Messrs. Alexander, Allen, Alston, Anderson, Baylor, James Blair, John Blair, Bockee, Boon, Bouldin, Broadhead, Brown, Carson, Chandler, Claiborne, Clay, Coke, Coleman, Conner, Craig, Crocheron, Daniel, Davenport, Desha, De Witt, Draper, Drayton, Duncan, Earll, Findlay, Ford, Foster, Gauthier, Gilmore, Gordon, Green, Hall, Halsey, Hammons, Harvey, Haynes, Hinds, Holland, Hoffman, Howard, Hubbard, Thomas Irwin, William W. Irvin, Isacks, Jarvis, Jennings, R. M. Johnson, Cave Johnson, Lamar, Lea, Leavitt, Lecompte, Leiper, Lent, Lewis, Loyall, Lumpkin, Lyon, Magee, McCoy, McDuffie, McIntire, Mitchell, Monell, Muhlenberg, Overton, Patton, Pettis, Polk, Potter, Powers, Rencher, Roane, Sanford, Scott, Shields, Speight, Sprigg, Standefer, Sterigere, Stephens, Wiley Thompson, Trezvant, Tucker, Wayne, Weeks, Wickliffe, Yancey.—93.

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Mr. EVERETT then rose, and addressed the House as follows:

In presenting this subject last week to the House, I observed, that it was with regret that I found myself obliged to bring it forward in a manner, strictly parliamentary indeed, but somewhat unusual. I should have preferred to submit this great subject to the consideration of the House by the more usual course of a resolution. I have had a resolution prepared for that purpose, and lying in my desk for several weeks; but the Chair knows that there has not been a moment, for several weeks, when a resolution could be offered but by the unanimous consent of the House. Such consent I could not ask on such a subject. I should have been better pleased to meet the subject on a report from the Indian committee, to whom, in connexion with very numerous memorials from various parts of the country, with the President's message, and with the petitions of the Creek and Cherokee Indians, it has been referred. No report, however, has proceeded from that committee, and no intimation has been given that any is to be expected.

In this state of things, urged by my sense of duty, admonished by several expressions of public sentiment committed to my charge by the people I represent, and looking upon the subject as one of great, of paramount—ay, sir, of most painful importance—a subject eminently requiring the interposition of this House—I have felt myself constrained in the forbearance of others much better qualified to take this step to make this effort to bring it under the consideration of the representatives of the people.

I should think, sir, that a positive decision of this question by Congress would be highly desirable to the friends of the administration. They cannot, I should think, wish to leave with the Executive the responsibility of sitting still and witnessing the violation of a very large number of treaties and compacts, and of the clearest provisions of law. No man surely can pretend that such a policy can be within the competence of the Executive; and if, for reasons of necessity, or reasons of State, or any other reasons, the treaties with the Indians are to be annulled, and the laws touching our intercourse with them converted into a dead letter, it surely cannot require an argument to prove that Congress is the only power by which this can be done with any show of rightful authority.

I cannot disguise my impression, that it is the greatest question which ever came before Congress, short of the question of peace and war. It concerns not an individual, but entire communities of men, whose fate is wholly in our hands, and concerns them—not to the extent of affecting their interests, more or less favorably, within narrow limits. As I regard it, it is a question of inflicting the pains of banishment from their native land on seventy or eighty thousand human beings, the greater part of whom are fixed and attached to their homes in the same way that we are. We have lately seen this House in attendance, week after week, at the bar of the other House, while engaged in solemn trial of one of our own functionaries, for having issued an order to deprive a citizen of his liberty for twenty-four hours. It is a most extraordinary and astonishing fact, that the policy of the United States toward the Indians—a policy coeval with the revolution, and sanctioned in the most solemn manner on innumerable occasions—is undergoing a radical change, which, I am persuaded, will prove as destructive to the welfare and lives of its subjects, as it will to their rights; and that neither this House, nor the other House, has ever, even by resolution, passed directly upon the question.

But it is not merely a question of the welfare of these dependent beings, nor yet of the honor and faith of the country which are pledged to them—it is a question of the Union itself. What is the Union? Not a mere ab-

straction; not a word; not a form of Government; it is the undisputed paramount operation, through all the States, of those functions with which the Government is clothed by the constitution. When that operation is resisted, the Union is in fact dissolved. I will not now dwell on this idea; but the recent transactions in Georgia have been already hailed in the neighboring British provinces as the commencement of that convulsion of these United States, to which the friends of liberty throughout the world look forward with apprehension, as a fatal blow to their cause.

If any further apology were needed for bringing this matter before the House, it might be the fact that it has been frequently referred to us. It has formed a prominent topic in the two annual communications of the Chief Magistrate. Numerous memorials on both sides of the question have presented it to us; reports in both Houses of Congress have discussed it; but, owing to some strange fatality, it has never been plainly and decidedly met.

The Secretary of War tells us that a new era has within a few years arisen in relation to our Indian affairs. He does not indicate precisely what marks the new era; but, in one respect, there has unquestionably arisen a new era in this department, that of substituting Executive decision for congressional enactment. Formerly the Executive only carried into effect our laws and treaties made by the treaty-making branch of the Government. Now the President, 1st, permits the States to annul the treaties, and proceed on their declared want of validity, and, 2d, annuls the laws himself, and permits his Secretary to come down to Congress, with an argument to prove that a law substantially coeval with the Government is unconstitutional. I am willing to receive the Secretary's argument for what it is worth; but really, sir, I have studied the constitution unsuccessfully, if the mere opinion of a Secretary, with or without an argument, renders a law unconstitutional, and makes it cease to be obligatory. But to this I shall return, only repeating, now, that the assumption of these two principles in our Indian affairs does, indeed, constitute a new era.

Sir, I know the delicacy of this subject. I approach it with reluctance and pain, under the most imperious sense of duty. I would gladly have put it by, could I have justified myself in so doing. I know, by past experience, the odium I am to incur. I know that, humble as I am, the denunciations of hundreds of presses throughout the country await me. I have seen within a week, in a paper published at this place, and which has been made the channel of the most confidential communications between the President and the people; I have seen the course of the minority of this House who voted on the Indian bill last year—a minority comprising some of the most respectable friends of the President, and amounting to very nearly one-half of the House—ascribed to vile faction.

But, disagreeable as the consequence may be to one who loves strife as little as I, I cannot keep silence when I hear the laws of the land declared unconstitutional, by those executive officers who have no other duty in reference to the laws, but to enforce them; when I see treaties violated by States who are parties to them; treaties sanctioned by all the forms of the constitution, and ratified by the Senators representing the very States foremost in the violation. I cannot keep silence when I see the constitution invaded; the honor of the country tarnished; the Union impaired. If my whole course, during the six years that I have been honored with a seat on this floor, will not protect me in the judgment of others from the imputation of vile and factious motives, I shall have at least the consciousness in my own bosom, that a sense of public duty, and that alone, has impelled me to the course I have taken.

Sir, the Secretary says a new era has arisen in our Indian affairs. This is true. Up to the year 1828, the course of proceeding in our Indian affairs is well known, at least

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in reference to all the tribes whose rights are now in controversy. The United States had negotiated treaties with all the Southwestern tribes. Our relations with them, and the boundary between them and us, were regulated by treaty; and by the intercourse law framed in pursuance of the same policy. A limited and qualified sovereignty, sufficient to enable them to contract these treaty obligations, was conceded to the tribes. No State had pretended to extend her laws over either of these tribes till the year 1828. To show the various views entertained of this subject, I will cite several authorities, which will abundantly sustain me in this position. The distinguished individuals whom I quote, and the present Chief Magistrate at the head of them, took views somewhat different from each other, but none of them, I believe, intimated that the separate States possess the right now claimed.

In 1821, the Creek Path Indians, being dissatisfied with the conduct of their brethren of the Upper Towns, applied to General Jackson, then Major General of the Southern division, requesting him to use his influence with the General Government, to procure for the said Creek Path Indians an inalienable reservation of a part of their lands, on consideration of selling their proportionate share of the common lands of the nation. General Jackson was in favor of this project, and wrote to Mr. Calhoun, then Secretary of War, as follows:

"I do believe, in a political point of view, as well as in justice to these people, their prayer ought to be noticed. It is inviting Congress to take up the subject, and exercise its power, under the Hopewell treaty, of regulating all the Indian concerns as it pleases. This is a precedent much wanted, that the absurdity in politics may cease, of an independent, sovereign nation holding treaties with people living within its territorial limits, acknowledging its sovereignty and laws, and who, although not citizens, cannot be viewed as aliens, but as real subjects of the United States." Here the right of legislating for the Indians is claimed, not for the States, but for the United States; and this under the treaty of Hopewell, a treaty negotiated before the adoption of the federal constitution, and containing the amplest guaranties of the rights of the Cherokees.

In treating with the Cherokee Indians, in 1823, Messrs. Campbell and Meriwether, citizens of Georgia, animated by a strong zeal for the acquisition of Indian lands, use this language: "The sovereignty of the country which you occupy is in the United States alone; no State or foreign Power can enter into a compact with you. These privileges have passed away, and your intercourse is restricted exclusively to the United States."

In the year 1824, March 10th, the Cherokees are spoken of, in the following manner, in a letter addressed by the Senators and Representatives of Georgia to the Secretary of War: "If the Cherokees are to be viewed as other Indians, as persons suffered to reside within the territorial limits of the United States, and subject to every restraint which the policy and power of the General Government require to be imposed on them, for the interest of the Union, the interest of the particular States, and their own preservation, it is necessary that these misguided men should be taught by the General Government, that there is no alternative between their removal beyond the limits of the State of Georgia and their extinction."

In 1824, Judge White, now the distinguished Senator from Tennessee, gave an opinion, in which he expressed himself as follows: "Under the parental care of the Federal Government, the Cherokees have been in a good degree reclaimed from their savage state. Under their patronage, they have become enlightened; they have acquired a taste for property of their own, from the use of which they can exclude all others; they have acquired the property itself. There must be laws to

protect it, as well as to protect those who own it. By what community ought these laws to be enacted? Laws there have always been, and laws there must continue to be, emanating from some power capable of enacting them. Where is that power? It must be in Congress, or in the Cherokees. Congress has never exercised it, the Cherokees always have. I have never heard that their power was doubted."

Governor Troup, in 1825, March 25th, issued a proclamation, from which the following is an extract: "Whereas it is provided in said treaty that the United States shall protect the Indians against the encroachments, hostilities, and impositions of the whites, so that they suffer no interruption, molestation, or injury, in their persons, goods, effects, their dwellings, or the lands they occupy, until their removal shall have been accomplished, according to the terms of the treaty:

"I have therefore thought proper to issue this my proclamation, warning all persons, citizens of Georgia, or others, against trespassing or intruding upon lands occupied by the Indians, within the limits of this State, either for the purpose of settlement or otherwise, as every such act will be in direct violation of the provisions of the treaty aforesaid, and will expose the aggressors to the most certain and summary punishment by the authorities of the State and the United States.

"All good citizens, therefore, pursuing the dictates of good faith, will unite in enforcing the obligations of the treaty, as the supreme law," &c.

Governor Troup, being exceedingly desirous to hasten the survey of the lands acquired by the treaty of the Indian Springs, asked permission to survey them, of General McIntosh, the chief of the emigrating party, as a necessary preliminary.

In 1826, a Senator from Mississippi, now deceased, (Mr. Reed,) disclaimed any right, on the part of the State, to extend her jurisdiction over the Indians. "At the last session, said he, of the Legislature of Mississippi, a proposition was made to extend the civil power of their courts to their own citizens, who had contracted debts within the State, and had fled to this savage sanctuary. The matter was debated many days, and it was at last decided that there existed no power in the State to extend its laws in the manner sought by the proposition."

These authorities, I think, will abundantly prove that the claim of the Southern States to exercise jurisdiction over tribes with whom there are existing treaties, forms a new era. Whether it be that to which the Secretary of War alludes, I pretend not to decide.

While the Secretary of War announces this new era, the President in his message at the opening of the session informed us, that "the benevolent policy of the Government, steadily pursued for nearly thirty years, in relation to the removal of the Indians beyond the white settlements, is approaching to a happy consummation." This statement appears to me at variance with that which was made in the annual message of the last year. In that document, we were told that "it has long been the policy of Government to introduce among Indians the arts of civilization, in the hope of gradually reclaiming them from a wandering state." This is certainly a benevolent policy: and this is the policy which has been steadily pursued for nearly thirty years. But last year, the President added: "This policy has, however, been coupled with another, wholly incompatible with its success. Professing a desire to civilize and settle them, we have, at the same time, lost no opportunity to purchase their lands, and thrust them further into the wilderness. By this means, they have not only been kept in a wandering state, but have been led to look upon us as unjust and indifferent to their fate. Thus, though lavish in its expenditures on the subject, Government has constantly defeated its own policy."

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Last year the benevolent policy of settling and civilizing them had been thwarted by another, that of removal to the West, declared to be incompatible with its success. This year the removal to the West is declared to be the benevolent policy which has been steadily pursued. In my judgment, the view taken in the message of last year is the sounder.

But the policy of removal has, I grant, been pursued steadily for thirty years, but never in the same manner as now. It was never thought of, that all the treaties and laws of the United States protecting the Indians could be annulled, and the laws of the States extended over them; laws of such a character that it is admitted, nay urged, that they cannot live under them. The policy of removal has been pursued by treaty, negotiated by persuasion, urgency, if gentlemen please, with importunity. But the compulsion of State legislation, and of the withdrawal of the protection of the United States, was never before heard of. If the President means that the policy of removal under this compulsion is thirty years old, I do not know a fact on which his proposition can stand for a moment. However pursued, the policy of removal had been attended with limited success. Vast tracts of land had indeed been acquired of the Southwestern tribes, but chiefly by bringing their settlements within narrower limits. Between the years of 1809 and 1819, about one-third of the Cherokees went over to Arkansas, and the hardships and sufferings encountered by them were a chief cause why their brethren, the residue of the tribe, resisted every inducement held out to persuade them also to emigrate. The Choctaws, by the treaty of Doak's Stand, acquired a large tract of country between the Red river and the Canadian; but would not, in any considerable numbers, emigrate to it. In 1826, a part of the Creeks were forced, by the convulsions in that tribe, to emigrate, under the treaty of that year. In 1828, the Choctaws and Chickasaws sent a deputation to explore the country west of Arkansas, which returned dissatisfied with its appearance.

While the policy of removal was going on with this limited success, that of civilization, the truly benevolent policy, was much more prosperous. The attempt to settle, to civilize, and to christianize some of these tribes succeeded beyond all example. If the accounts of their previous state of barbarism are not exaggerated, the annals of the world do not, to my knowledge, present another instance of improvement so rapid, within a single generation; unless it be that which has been effected, by a similar agency, in the Sandwich Islands within the last ten years.

During all the time that these two processes were going on, that of removal, (declared last year by the President to be inconsistent with civilizing them,) with partial success; and that of settling and improving their condition, on this side of the Mississippi, in which the success had been rapid and signal, no attempt was made to encroach upon their limited independence. The right of the United States to treat with them was not questioned; the States never attempted to legislate over them; and the possessions and rights guaranteed to them by numerous treaties, were considered by them and by us as safe beneath the protection of the national faith. But, at length, under the late administration of the General Government, the Southwestern States, taking advantage of the political weakness of that administration, seemed determined to adventure the experiment, how far they could go, to effect, by a new course of State legislation, a revolution in the Indian policy of the country.

Georgia led the way. In 1828, she passed a summary law, to take effect prospectively, extending her jurisdiction, civil and criminal, over the Indian tribes within her limits. In 1829, this law, with more specific provisions, was re-enacted, to take effect on the 1st day of June,

1830. This example of Georgia was imitated by Alabama and Mississippi. By these State laws, the organization previously existing in the Indian tribes was declared unlawful, and was annulled. It was made criminal to exercise any function of Government under authority derived from the tribes. The political existence of these communities was accordingly dissolved, and their members declared citizens or subjects of the States. What a contrast, in two or three years! In 1826, after many days' debate, the Legislature of Mississippi decided that it had no right to pass a law to pursue its own citizens, being fugitive debtors, into the Indian country. In 1829, the same State extends all its laws over the Choctaws, abrogates their Government, and denounces the punishment of imprisonment on any person who should exercise any office under the authority of the tribe.

The Indians, as was natural, looked to the Government of the United States for protection. It was the quarter whence they had a right to expect it—where, as I think, they ought to have found it. They asked to be protected in the rights and possessions guaranteed to them by numerous treaties, and demanded the execution, in their favor, of the laws of the United States governing the intercourse of our citizens with the Indian tribes. They came first to the President, deeming, and rightly, that it was his duty to afford them this protection. They knew him to be the supreme executive officer of the Government; that, as such, he had but one constitutional duty to perform toward the treaties and laws—the duty of executing them. The President refused to afford the protection demanded. He informed them that he had no power, in his view of the rights of the States, to prevent their extending their laws over the Indians; and the Secretary of War, in one of his communications to them, adds the remark, that the President had as little inclination as power to do so.

When this decision of the President was taken, does not certainly appear. On the 23d day of March, 1829, he informed a delegation of Creek Indians, that, if they remained, they must become subject to the law of Alabama. On the 11th of April, the superintendent of the Bureau of Indian Affairs, by direction of the Secretary of War, stated to the Cherokee delegation, "that the Secretary of War is not now prepared to decide the question involved in the act of the Legislature of Georgia to which you refer, in which provision is made for extending the laws of Georgia over your people, after the 1st of June, 1830. It is a question which will doubtless be the subject of congressional inquiry, and what is proper in regard to it will no doubt be ordered by that body."

"In regard to the act of Georgia, no remedy exists short of one which Congress alone can apply."

On the 18th of the same month, a letter of the Secretary of War, to the same delegation, tells them, in the most positive terms, that the Indians must submit to the State laws.

On the 14th of October, the Secretary, writing to Governor Forsyth, uses this language: "At an early period, therefore, when this question arose, the Cherokees were given distinctly to understand that it was not within the competency or power of the Executive to call in question the right of Georgia to assert her own authority within her own limits; and the President has been gratified to witness the extent to which a principle so reasonable in itself, and so vitally important to State sovereignty, has received the approbation of his fellow-citizens. This oft asserted and denied right being settled, on the side of the State, to the extent that Executive interference could go, it was expected and hoped that a little longer continuance of that forbearance which Georgia has so long indulged, was all that was wanted to assure to her the purposes and objects she had before her; and after a manner, too, to which philanthropy could take no exception."



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Such was the fate of the question which was to be the subject of congressional inquiry. In what way that popular sanction had been given, which the President appears to have taken in lieu of any legislative decision on this question, does not appear.

At the ensuing session of Congress, a memorial was presented to this House, signed by three thousand and eighty-five individuals of the Cherokee tribe. Another memorial was laid upon our tables from the Creeks. The subject was also presented to us in the annual message of the President, disclosing a state of facts which seemed to require, as well as to invite, the decisive action of Congress. Finally, the public mind was extensively awakened. Very numerous memorials, on the subject of the revolution which was going on in our Indian policy, were sent in to Congress. Some of these (and of this character was the first presented) approved the change: by far the greater part condemned it.

In this way, the question of the right of the State to extend her laws over Indian tribes, in contravention of treaties and the laws of the United States, was brought before Congress in the fullest and amplest manner. It was not, however, directly met. The President had, in the recess of Congress, declared that he could not, and would not, enforce the treaties and laws. The Secretary of War had almost sneered at the idea that the Indians could possess rights under a treaty forty years old; as if the validity of a treaty were impaired by the length of time its provisions had been in force. But the treaties were still preserved in our archives. The intercourse law founded upon them still stood unrepealed on the statute book; and it appears to me that the proper way in which this question was to be met, would have been a proposition to repeal the laws and abrogate the treaties.

In my judgment, there was an error in the first step taken by the President. He decided a question which he had no constitutional competency to decide. When the first movement was made by the States, he should have interposed to maintain the treaties and enforce the laws, and have referred the subject to Congress. What other power has the Executive over a treaty or a law, but to enforce it? The principle assumed by the President and by the Secretary is, that, whenever the Executive thinks a law unconstitutional, he may forbear to execute it. Now, how will this operate on other questions? Suppose Mr. Adams had thought the compact of 1802 unconstitutional, (as it was held to be in this debate last winter by a Senator from Alabama,) could he have refused to enforce it—could he have forborne to expend an appropriation granted to carry it into effect? The President has plainly intimated that the Bank of the United States is unconstitutional. Is he thereby authorized to put it out of the pale of the law? A very respectable portion of the community regards the tariff as unconstitutional, and propositions have been made to annul it by the authority of a State, and within its limits. But who ever heard that the President and the Secretary of the Treasury might between them declare it unconstitutional, and, as such, null and void? The intercourse law was passed, as it stands, in 1802; the substance of it was enacted in 1791; and the Secretary of War, with the full concurrence of the President, lays his hand on this law, which is forty years old, tells us it is unconstitutional, and, as such, not obligatory.

Let us but consider the extravagance of this doctrine. The constitution gives to the President a veto on an act of Congress in its passage; and, if he withholds his signature, it fails to become a law. But, even without the sanction of his name, without the Executive concurrence, which may be withheld on the very ground of unconstitutionality, the act becomes a law if two-thirds of Congress adhere to it. But of what use is this or any other limitation on the exercise of the President's veto, if he

may annul any law and all the laws in the statute book, on the simple opinion that they are unconstitutional?

But what, it may be asked, is the President to do? How is he to proceed with an unconstitutional law? I answer this question, by asking another: how is he authorized to arrive at the conclusion that a law is unconstitutional? Is he created by the constitution a functionary to pass on the unconstitutionality of laws? I can find no such power given him in the constitution. It is one thing for a law to be ascertained and declared unconstitutional, by the competent tribunal, and another thing for it to be thought unconstitutional, by any citizen or officer called on to obey or to enforce it. The citizen is not bound to obey an unconstitutional law: for it is no law. But, if he undertakes to disobey a law, because, in his private judgment, it is unconstitutional, it is at his risk and peril; and it will not probably be long before some process of law will teach him that he is not authorized finally to adjudicate such a question. An executive officer, high or low, is certainly not bound to execute an unconstitutional law; but his simply thinking it to be unconstitutional, is a very different affair.

Suppose a collector should think the tariff unconstitutional, could he forbear to collect the duty? Could the Secretary of the Treasury, holding the same opinion, remit the duty? Could the President direct his Secretary to remit it?

In the Government under which we live, a power is provided to pass on the constitutionality of laws. The President is not that tribunal. His office is executive. The opinion he holds of the constitutionality of a law, (except when called to sign it on its passage,) he holds not officially, but as any other citizen, at his peril; and, as it is his sworn duty to execute the laws, if he refuses to execute a law, for whatever cause, he is guilty of a high breach of official duty, and commits an impeachable offence. It is the province of this House to hold him to his duty.

There is no end to the absurd consequences which would flow from an opposite principle. To what would it not lead? If the President may annul a law which he thinks unconstitutional, the Secretary may annul another which he thinks unconstitutional; and so may any of his clerks. The Clerk of your House may refuse to carry a bill which you pass to the Senate, if he thinks it unconstitutional: for, in that case, it is no more a law, on this principle, than an old newspaper. And, if gentlemen contend that they reserve to the President alone this dispensing power of refusing to execute laws which, in his private judgment, are unconstitutional, they merely give us, instead of the anarchy which would arise from its being possessed by all the executive officers, a perfect Oriental despotism, produced by imparting it to one.

We have heard a good deal said about nullification, and no small opprobrium attached to the word. Has it never occurred to some gentlemen, willing enough to stigmatize that doctrine, that they themselves have lent their countenance to the same doctrine, not in theory alone, but in practice? Georgia orders a survey of the Cherokee lands. The law of 1802 makes it highly penal to survey lands belonging or secured to Indian tribes by treaty. It subjects those who transgress the law to a thousand dollars fine and twelve months' imprisonment, and authorizes the President to call out a military force to execute the law. The President tells all concerned that he will not enforce the law, because he thinks it unconstitutional. Is not that nullification? The convention of the judges of Georgia decide all Indian treaties to be unconstitutional. Is not that nullification? And yet, if I mistake not, propositions have been made in the quarter where this nullification is practised by wholesale, to censure the doctrine as theoretically advanced in a neighboring State.

I have remarked that the direct way to meet this ques-

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tion would have been to propose a law abrogating the treaties and repealing the intercourse law of 1802. But a different course was pursued. A bill was presented, ably drawn and carefully worded, so as to leave this question entirely aside. Although the bill was an integral part of the policy of the States, designed to co-operate with it, and in fact built upon it as upon a foundation, it was so worded as not, in terms, to afford it any sanction. We were obliged to go to the President's message, and to the reports of the committees of the two Houses of Congress, to ascertain its character. We did so; and we discussed the policy, as it discovered itself in those documents.

But, harmless as the bill was in its terms, it could not have passed, but for the amendment moved by the gentleman from Pennsylvania, [Mr. RAMSEY,] by which amendment it was provided that "nothing in this act contained shall be construed as authorizing or directing the violation of any treaties existing between the United States and any Indian tribe." I was perfectly well persuaded, at the time, that this proviso would be without practical effect, but it saved the bill from being lost; and now, from one end of the continent to the other, this proviso is held up to show that the Indian bill of last winter does not sanction the compulsory removal of the Indians; that the treaties are to be held inviolate; and that the Indians are to be protected in their rights; all the while that it is perfectly notorious, as I shall demonstrate before I sit down, that the Indians are not to be protected; that the treaties are violated; and that this proviso is a dead letter.

The bill passed, we all remember how, under the severest coercion by the previous question, that I have ever known, applied, too, for the purpose of shutting out the amendment of the gentleman from Pennsylvania, [Mr. HEMPHILL,] the object of which was to obtain information in respect to the character of the country to which the Indians were to be removed. For I beg it may be recollected, after all we have heard of the factious course pursued by the minority, that all we asked was the adoption of the amendment of the gentleman from Pennsylvania, which proposed to send a respectable commission into this region, to see if it be fit for the habitation of the fellow-beings whom we are driving from their homes; and that this was denied us. Still the act seemed to promise something to the Indians, for it bore on its face, that the treaties were not to be violated. The money which it granted was granted conditionally: the condition was contained in a proviso; and, if that proviso were not acted up to, no appropriation was made, and no expenditure was lawful. Just two, or perhaps three days after the passage of the act, the Georgia laws took effect and went into operation over all the Indians included within the nominal boundaries of the State.

And here I reach a part of the subject, on which I dwell with great pain—the legislation of Georgia over the Cherokees. It is my duty to inquire into the character of the Georgia laws, against which our interference is invoked, and our protection demanded. I speak of the laws of Georgia individually, and not of the other States who have extended their jurisdiction over the Indians, because the legislation of Georgia is better known. I do not single out her laws invidiously. Neither do I pretend an acquaintance with her whole code. I have not seen it. A few laws only, that form a part of it, have come to my knowledge; but these are sufficient to establish my proposition, that these Indians have great and just cause to look to us for protection.

I will first speak of the effect of the Georgia legislation upon the Cherokee Government. The Cherokees, sir, have a very respectable representative Government; respectable in its character; respectable in its origin. The first sketch of it proceeded from the same pen that draughted our own declaration of independence. In 1809, Mr.

Jefferson gave this people the first elements of a system of government, adapted to their condition, which I will venture to read to the House.

*"My children, deputies of the Cherokee Upper Towns:*

"I have maturely considered the speeches you have delivered me, and will now give you answers to the several matters they contain.

"You inform me of your anxious desires to engage in the industrious pursuits of agriculture and civilized life; that, finding it impracticable to induce the nation at large to join in this, you wish a line of separation to be established between the Upper and Lower Towns, so as to include all the waters of the Hiwassee in your part; and that having thus contracted your society within narrower limits, you propose, within these, to begin the establishment of fixed laws and of regular Government. You say, that the Lower Towns are satisfied with the division you propose, and on these several matters you ask my advice and aid.

"With respect to the line of division between yourselves and the Lower Towns, it must rest on the joint consent of both parties. The one you propose appears moderate, reasonable, and well defined; we are willing to recognise those on each side of that line as distinct societies, and if our aid shall be necessary to mark it more plainly than nature has done, you shall have it. I think with you, that, on this reduced scale, it will be more easy for you to introduce the regular administration of laws.

"In proceeding to the establishment of laws, you wish to adopt them from ours, and such only for the present as suit your present condition; chiefly, indeed, those for the punishment of crimes and the protection of property. But who is to determine which of our laws suit your condition, and shall be in force with you? All of you being equally free, no one has a right to say what shall be law for the others. Our way is to put these questions to the vote, and to consider that as law for which the majority votes—the fool has as great a right to express his opinion by vote as the wise, because he is equally free, and equally master of himself. But as it would be inconvenient for all your men to meet in one place, would it not be better for every town to do as we do—that is to say: Choose by the vote of the majority of the town, and of the country people nearer to that than to any other town, one, two, three, or more, according to the size of the town, of those whom each voter thinks the wisest and honestest men of their place, and let these meet together, and agree which of our laws suit them. But these men know nothing of our laws. How then can they know which to adopt? Let them associate in their council our beloved man living with them, Colonel Meigs, and he will tell them what our law is on any point they desire. He will inform them also of our methods of doing business in our councils, so as to preserve order, and to obtain the vote of every member fairly. This council can make a law for giving to every head of a family a separate parcel of land, which, when he has built upon and improved, it shall belong to him and his descendants forever, and which the nation itself shall have no right to sell from under his feet. They will determine, too, what punishment shall be inflicted for every crime. In our States generally, we punish murder only by death, and all other crimes by solitary confinement in a prison.

"But when you shall have adopted laws, who are to execute them? Perhaps it may be best to permit every town, and the settlers in its neighborhood attached to it, to select some of their best men, by a majority of its voters, to be judges in all differences, and to execute the law according to their own judgment. Your council of representatives will decide on this, or such other mode as may best suit you. I suggest these things, my children, for the consideration of the Upper Towns of your nation, to be decided on as they think best, and I sincerely wish you may succeed in your laudable endeavors to save the re-

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mains of your nation, by adopting industrious occupations and a Government of regular laws. In this you may rely on the counsel and assistance of the Government of the United States. Deliver these words to your people in my name, and assure them of my friendship.

“THOMAS JEFFERSON.

“JANUARY 9, 1809.”

In 1817, this Government received the sanction of the United States, in a treaty negotiated in that year by the present Chief Magistrate, as a commissioner plenipotentiary for that purpose. In the preamble to this treaty, the incidents of 1809 are alluded to; the purpose of the Cherokees who remained on this side of the Mississippi, to begin the establishment of fixed laws and a regular Government, is recognised, together with the promise, made by Mr. Jefferson, of the patronage, aid, and good neighborhood of the United States, alike to those who emigrated and those who staid behind. This treaty was unanimously ratified by the Senate of the United States. Thus originated and thus confirmed, the Cherokee Government subsequently assumed a highly regular form, and an improved organization. Its practical operation was excellent, and it did the United States no harm, because it was assumed as the principle of our Government, that no change was to be wrought by the improved institutions of the Cherokees on their relations with us.

Of the orderly and becoming manner in which the Cherokee Government was conducted, we have the satisfactory testimony of Messrs. Campbell and Meriwether, who went among them to negotiate a treaty in 1823. I read an extract from a letter addressed by them to the council of the Cherokee nation, dated Newtown, 16th October, 1823:

“Friends and brothers: We are happy that a short time has been consumed in the correspondence between you and the State commissioners.

“This has afforded us an opportunity of becoming partially acquainted with several members of this council. For the whole body we entertain a high respect, and we trust that with some of you we have contracted individual friendships. In saying this, we do no violence to our feelings, neither do we lower the elevated character of the United States. People who have never seen you, know but little of your progress in the arts of civilized life, and of the regular and becoming manner in which your affairs are conducted.

“Your improvement reflects the greatest credit upon yourselves, and upon the Government by which you have been improved and fostered.”

Such was and is the Cherokee Government which Georgia has avowed her purpose, by one sweeping act of legislation, to put down. That State has enacted a law making it highly penal to exercise any of the functions of this Government. Chiefs, headmen, members of the council, judicial and executive officers, are all subject to four years' imprisonment in the penitentiary, if they presume to exercise any of the functions of Government within their own tribe, and under that constitution which we originally and repeatedly exhorted them to frame.

In this way the greatest confusion is at once introduced into the concerns of this unhappy people. Their own Government is outlawed, and it is made highly penal to execute its functions. The protection of the United States is withdrawn, because Georgia has extended her laws over the Indians; and Georgia herself, although asserting, and in many respects exercising, her jurisdiction, has not yet organized it in such a manner as to keep the peace among this afflicted race. Their system of Government, instead of being regarded as almost all Governments, however defective, are entitled to be, as an institution necessary for the wellbeing of the people, which ought to be treated with tenderness, and not be destroyed till a sub-

stitute is provided, has been abated and broken down as a nuisance.

But among the laws of Georgia, extended over the Cherokees, there are some which, from their nature, must take an immediate effect; and among these I cannot but notice several whose operation must be as injurious to the welfare of the Indians, as the entire system is destructive of their rights. At the late session of the Georgia Legislature, a law was passed, “that no Cherokee Indian should be bound by any contract, hereafter to be entered into, with a white person or persons; nor shall any Indian be liable to be fined in any of the courts of law or equity in this State, on such a contract.” I am aware that laws of this kind have been found necessary among the dwindling remnants of tribes, in some of the States, whose members are so degenerate that they are unable to preserve, against the arts of corrupt white men, the little property they possess. But among the Cherokees are men of intelligence and shrewdness, who have acquired and possess large accumulations of property—houses, shops, plantations, stock, mills, ferries, and other valuable possessions; men who understand property and its uses as well as we do, and who need all the laws which property requires for its judicious management. Notwithstanding this, Georgia, at one blow, makes all these people incapable of contracting. Men as competent as ourselves to all business transactions, are reduced by a sweeping law to a state of pupillage.

[Mr. FOSTER, of Georgia, explained, that this law was passed for the benefit of the Indians, to prevent their being imposed on. That it did not release white men from their engagements to Indians, but Indians from their engagements to white men.]

I understood and stated the law, said Mr. E., precisely as the gentleman from Georgia states it. I know this character may be claimed for the law. But how does it seek the benefit of the Indians? By reducing them to a state of minority. Sir, it is for the benefit and protection of children, that they are unable to contract; but still they are children, and the law holds them to their infancy. And what sort of a boon is it to men of large property and active dealings, to pass a law releasing them from their contracts? Does it not directly follow, that, if they cannot be held to their contracts, no one will contract with them; and that the apparent limitation of the law, which exempts the Indian, while it binds the white man, is illusory; for who will contract with a person who is, by law, exonerated from compliance with his engagements? Such a law can have no other effect among Indians than among white men; and what would be the effect on the business of a community of white men, to enact a law releasing them from all engagements into which they might enter?

By the law of Georgia, of 1829, the testimony of an Indian was declared inadmissible in any case in which a white man is a party. This law was generally condemned during the discussions of last year. The objections taken to it were declared by some of the advocates of the course pursued by Georgia to be unreasonable, captious, and groundless, and were set down to the score of morbid sensibility and political philanthropy. Now, what has been the practical operation of this feature in the Georgia law? Governor Gilmer thus describes it in his message, at the opening of the late session of the Georgia Legislature:

“It is also due to our Indian people, that that provision in the law of 1829 should be repealed, which prevents Indians, and the descendants of Indians, from being competent witnesses in the courts of the State, in cases where a white man is a party. The present law exposes them to great oppression, while its repeal would probably injure no one. Attempts have been made to strip them of their property by forged contracts, because of the impossibility of defending their rights, by the testimony of those who alone can know them. And although

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'the moral feeling of our frontier community has been too correct to permit such infamous proceedings to effect their ends; yet the character of our legislation for justice requires that the rights of those people should not be exposed to such danger.'

Such is the character which Governor Gilmer gives of this law, and of its operation. I have heard some details of the oppressions to which he alludes. I have no reason to doubt their truth; but I will not repeat them to the House, without vouchers to support them. I will only add, that this law rejecting the testimony of Indians, remains unrepealed; and that their rights and property are still dependent on "the moral feeling of the frontier community" of Georgia. That frontier community must have better feelings and principles than usually actuate a part of every community, if, in the continued operation of this law, the Indians are not subjected to the most grievous oppressions.

I will mention another law of the new code. Its design may be imperfectly apprehended by me: and if I err in the motive for which I suppose it was enacted, I hope I shall be excused, on the ground of the great difficulty of picking up here and there—one law in this newspaper, and another in that—the information which, as it seems to me, ought to have been spread before us, in an ample detail, to enlighten and guide our legislation. The law to which I allude, subjects all white persons, who shall reside within the Cherokee country without a permit from the Governor of Georgia, or such agent as the Governor shall authorize, and who shall not have taken an oath of allegiance as a citizen of Georgia, to four years' imprisonment at hard labor in the penitentiary. Now, I should be glad to be informed where, on her own principles, Georgia gets the right to exact such an oath from all persons resident on her soil, granting the Cherokee country to be her soil. The constitution of the United States gives Georgia no such right. It is there provided, that "the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States." Grant that the country is subject to her laws: what right has she to tender to the citizens of another State an oath of allegiance as citizens of Georgia? If I go to Savannah or Milledgeville, and demean myself peaceably, I wish to know what right, under the constitution, Georgia possesses to shut me up to hard labor in her penitentiary, if I will not take an oath, as a citizen of that State.\* I am told that this law is intended to strike at the missionaries. I do not assert the fact, nor ascribe motives to men or bodies of men. If this is its design, as it will unquestionably be its effect, I trust it will be borne in mind that the missionaries were introduced into the Cherokee nation under very respectable auspices. It was during the administration of Mr. Madison, and with the express consent and approbation of Mr. Crawford, while this gentleman held the office of Secretary of War. His letter to Mr. Kingsbury, to this effect, is among the documents formerly communicated to the House. The missionaries were then promised the protection, countenance, and co-operation of the Government; and the annual appropriation for civilizing the Indians was recommended to be made, and has been applied in furtherance of their operations. They are, to say the very least, an innocent and harmless class of men. They expressly disclaim having interfered in the political relations of the Cherokees with the United States. They have unquestionably been the instruments of great good. If this region, and its ill-fated inhabitants, were swallowed up to-morrow by an earthquake, and sunk from existence, the missionaries would have left monuments of their benevolent labors, which will last as long

as the history or the memory of this generation lasts; yes, sir, as long as the earth and the heavens shall last.\* The law I have quoted is supposed to aim at their exclusion.

Thus far it is possible that Georgia (and I again beg leave to say that I name that State not invidiously) may be thought by some persons not to have gone beyond some abstract right of civil jurisdiction, capable of being reconciled with a "possessory right," in which the Indians were promised by the Executive to be protected. But Georgia has not stopped here. In the course of the year 1829, it was found that this region possessed, and probably in abundance, veins of gold. As soon as this discovery was made, intruders from every quarter, and from all the States in the neighborhood, flocked into the gold region, and overran the land. The Indians demanded their removal by the agent. The agent referred the case to the Secretary of War, and the Secretary of War gave the requisite orders for their removal. This took place before the 1st day of June, 1830. That day the laws of Georgia took effect. And very shortly afterwards I read a proclamation in the papers, proceeding from a gentleman whom I most highly respect, the present Governor of Georgia, and which appeared to be of a character so strange and unexpected, that I could scarcely credit my senses as I read it. Let me read a portion of this proclamation to the House, which bears date 3d June, 1830.

"Whereas it has been discovered that the lands in the territory now occupied by the Cherokee Indians, within the limits of this State, abound with valuable minerals, and especially gold: and whereas the State of Georgia has the fee simple title to said lands, and the entire and exclusive property of the gold and silver therein: and whereas numerous persons, citizens of this and other States, together with the Indian occupants of said territory, taking advantage of the law of this State, by which its jurisdiction over said territory was not assumed until the 1st day of June last past, have been engaged in digging for gold in said land, and taking therefrom great amounts in value, thereby appropriating riches to themselves, which, of right, equally belonged to every other citizen of the State, and in violation of the rights of the State, and to the injury of its public resources," &c. And then the Governor warns "all persons, whether citizens of this or other States, or Indian occupants, to cease all further trespass on the lands of this State, and especially from taking any gold or silver from the lands included within the territory occupied by the Cherokee Indians," &c. All further trespass on their own lands, and all further digging for their own gold!

It is true the Governor, in his message at the opening of the late session of the Legislature of Georgia, attempts to justify this strange pretension. "The right thus asserted," says he, "was supposed to be established by the customary law of all the European nations who made discoveries, or formed colonies, on the continent, by the fee simple or allodial title, which belongs to the State, to all lands within its limits, not already granted away, and the absence of all right in the Indians, they never having appropriated the mineral riches of the earth to their own use." Neither had Georgia appropriated these mines by occupation. As soon as the Cherokees knew their existence, they proceeded to take possession of, and to work them, till they were driven away by the laws of Georgia, and the troops of the United States. What force there can be in the English common law of fee simple and allodial title, to control the stipulations of a treaty between the United States and a tribe of Indians, I confess my inability to imagine. The argument from the customary law

\* These are the terms of the oath: "I, A. B., do solemnly swear, or affirm, as the case may be, that I will support and defend the constitution of Georgia, and uprightly demean myself as a citizen thereof."

\* Much information relative to the character and operations of the missionaries among the Indian tribes, may be found in the memorial to Congress of the Prudential Committee of the Board of Commissioners of Foreign Missions, presented to the House of Representatives by Mr. E., on the 14th of February.

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of the European *conquistadores* proves a great deal too much. It would justify the Governor, not only in seizing the gold mines, but in reducing the Indians themselves to bondage, and to labor in the mines. The Portuguese did this, and so did the Spaniards. The slave trade was projected by the benevolent Las Casas, to relieve the Indians from digging their own gold for their conquerors.

When this subject was under the consideration of the House, at the last session, I certainly did not entertain very favorable auguries of the treatment which the Cherokees were likely to receive; but it never entered into my head that they were to be denied a right to their own mines. On the contrary, I assumed it as a matter of course, that they were the lawful and admitted owners of this mineral wealth. Having, in the course of my remarks on this subject, had occasion to allude to the intruders into the gold region, before I could finish the sentence in which I made that allusion, a gentleman, who voted for the Indian bill, interrupted me, with the prompt assurance that these intruders were ordered to be removed by the Executive. I was gratified at the information, although it was then no more (as I thought) than a matter of course. My next information on the subject was derived from Governor Gilmer's proclamation, claiming for Georgia the absolute property of the gold mines, and warning the Indians to desist from digging them.

Extraordinary as this is, I fear something more extraordinary remains to be told. By the intercourse law, the Executive is authorized to employ the military force of the United States to remove intruders from lands belonging or secured to Indians by treaty. This power has several times been exercised. But the Indians also possess, by treaty, the right of proceeding summarily to redress themselves. They possess the right by the treaty of Holston, negotiated in 1791. The Secretary of War, in alluding to the right which the Indians thus possess, under the treaty of Holston, speaks of it disparagingly as a treaty forty years old. But it will be recollected that, with all the other treaties, it was confirmed by an express article in that of 1817. What are the terms in which this right is secured to the Indians by the treaty of Holston?

"If any citizen of the United States, or other person, not being an Indian, shall settle on any of the Cherokee lands, such person shall forfeit the protection of the United States, and the Cherokees may punish him or not, as they please."—*Treaty of Holston, Art. 8th.*

In pursuance of this right, guaranteed by treaty, but flowing from that law of nature which is before all treaty, the Indians have exercised this power of protecting themselves from intruders: nor was it, that I know of, ever questioned by any administration till this. It has received the sanction of the present Chief Magistrate in the amplest terms. In a letter to Path Killer, and other Cherokee chiefs, dated Head Quarters, Nashville, 18th Jan. 1821, General Jackson thus expressed himself:

"Friends and brothers: I have never told a red brother a lie, nor deceived him. The intruders, if they attempt to return, will be sent off. But your light-horse should not let them settle down on your land. You ought to drive the stock away from your lands, and deliver the intruders to the agent; but if you cannot keep intruders from your land, report it to the agent, and, on his notice, I will drive them from your land. I am your friend and brother,

"ANDREW JACKSON."

In pursuance of the authority conferred on the tribe, by the treaty of Holston, an authority to the exercise of which they had been exhorted, a few years ago, by General Jackson, and of which the validity was, I believe, never questioned before, the Cherokees, in the course of the last year, in consequence of the number and disorderly conduct of the intruders upon their lands, proceeded to

remove a portion of them. This step, which they were perfectly warranted to take, occasioned a hostile incursion from Georgia, in the result of which one Indian was killed, and some others wounded and carried prisoners into Georgia. This occurrence occasioned the detachment of a party of United States' troops into the Cherokee country, who accordingly came, rather, as it would seem, to protect the intruders from the Cherokees, than the Cherokees from the intruders. Being there, orders were given to the troops to remove intruders from the gold region, and these orders were at first complied with, but with partial success: for, as soon as a band of gold diggers were driven from one spot, they settled in another, like hungry vultures frightened from their prey. They are said to have been a *colluvies* of all classes and characters; a lawless and desperate gang. And here ensued a scene of a character bordering on comedy, if any thing can be considered burlesque in so grave a matter. I give it as it is related in the memorial of the Cherokee Indians, on our tables:

"In another case, in the name and authority of George R. Gilmer, Governor of Georgia, a bill was filed in chancery, in the superior court of Hall county, in July last, against certain sundry Cherokees, praying for an injunction to stop them from digging and searching for gold within the limits of their own nation; and the bill being sworn to before the same A. S. Clayton, he awarded an injunction against the parties named in the bill as defendants, commanding them, forthwith, to desist from working on those mines, under the penalty of twenty thousand dollars, at a time and place where there were unmolested several thousand intruders from Georgia and other States, engaged in robbing the nation of gold, for which the owners were ordered not to work by the said writ. Under the authority of this injunction, the sheriff of Hall county, with an armed force, invaded the nation, consisting of a colonel, a captain, and thirty or forty militia of the State of Georgia, who arrested a number of Cherokees engaged in digging for gold, who were at first rescued by the troops of the United States stationed near the place, and the sheriff and his party themselves made prisoners, and conducted fifteen miles to the military camp, when a council of examination was held, and the exhibition of their respective authorities was made, which resulted in the release of the sheriff and his party, and a written order by the commanding officer of the United States' troops, directing the Cherokees to submit to the authority of Georgia, and that no further protection could be extended to the Cherokees at the gold mines, as he could no longer interfere with the laws of Georgia, but would afford aid in carrying them into execution. On the return of the sheriff and his party, they passed by the Cherokees, who were still engaged in digging for gold, and ordered them to desist, under the penalty of being committed to jail, and proceeded to destroy their tools and machinery for gleaming gold, and, after committing some further aggression, they returned. Shortly afterwards, the sheriff, with a guard of four men, and a process from the State of Georgia, arrested three Cherokees for disobeying the injunction, while peaceably engaged in their labors, and conducted them to Wadkinsville, a distance of seventy-five miles, before the same A. S. Clayton, who then and there sentenced them to pay a fine of ninety-three dollars, cost, and stand committed to prison until paid, and also compelled them to give their bond in the sum of one thousand dollars, for their personal appearance before his next court, to answer the charges of violating the writ of injunction aforesaid. In custody they were retained five days, paid the cost, gave the required bond, and did appear accordingly, as bound by Judge Clayton, who dismissed them on the ground that the Governor of Georgia could not become a prosecutor in the case. For the unwarrantable outrage committed on their



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liberty and persons, no apology was made, and the cost they had paid was not refunded."

I confess, when I first read the account of this incident, in the papers last summer, I supposed it was the wild freak of some inconsiderate subaltern; I did not imagine that it could have taken place by order from the Executive of the United States. The affair is but partially explained in any document I have seen; but thus much is certain, that orders were sent by the Secretary of War to the Cherokee agent, and to the officer commanding the troops of the United States, to forbid the Cherokees as well as the intruders from digging the gold mines. On the 26th June, 1830, an order was issued from the War Department at Washington to the officer commanding the United States' troops in the Cherokee country, "directing him, until further orders, to prevent all persons 'from working the mines, or searching for or carrying away gold or silver, or either metal, from the Cherokee nation.'"

This order was communicated by the agent to Mr. Ross, the principal chief of the Cherokees, in a letter dated 10th July, 1830, in which he says: "I have also enclosed you a copy of a letter from the War Department, on the subject of the gold mines, by which you will see that all persons are ordered to be kept from digging for gold until further order; and have to request that you will, in such way as you think best, make it known to the Indians, and also that you will advise them to desist for the present, as I am very desirous that no difficulties should take place between the United States' troops and them on the subject."

And now, sir, I think I may safely appeal to many gentlemen of the House, who voted for the Indian bill last winter, whether it entered into their imaginations that, under that bill, and with its proviso, the Indians should be prohibited by the armed force of the United States from digging gold within the limits secured to them by numerous treaties. There were gentlemen, I know, who voted for the bill, condemning the policy of which it is a part, but deeming it necessary to save the Indians. Others thought something ought to be done, in consequence of the compact of 1802. Others were influenced by some refined notion of a jurisdiction co-extensive with the charter. Did any of them mean or intend that, within less than a twelvemonth—within less than three months—after adopting a proviso that the treaties should not be violated, the Cherokees should be driven, by the bayonet of our United States' troops, from gold mines within the boundaries secured to them by treaty and law? The winding up of this affair was in keeping with its commencement and progress. The object of marching the troops into the Cherokee country, according to Major General Macomb, "was to guard against the difficulties which it was apprehended would grow out of the conflicting operations of the Cherokees and the lawless intruders upon the mineral district within the State of Georgia. Having fulfilled the instructions of the Government, the troops were directed to return for the winter to their respective quarters."

On the 29th of October last, Governor Gilmer wrote to the Secretary of War, requesting the removal of the troops, on the ground that the State of Georgia could enforce her own laws. On the 10th of November, the Secretary answers him, that, previously to the receipt of his letter, (two days before,) the troops had been ordered out of the Cherokee nation, because the purposes for which they had been sent into it were, in a great measure, accomplished. This object, according to the general commanding in chief, was to prevent collisions between the Cherokees and lawless intruders into the gold district. It was answered, by removing both!

And here it is obvious to ask, how, on the ground assumed by Georgia, and sanctioned by the Executive of

the United States, the President could feel himself authorized to employ the armed force of the United States in removing gold diggers, lawless or lawful, Indians or white men, from the gold mines of Georgia, if Georgia's they must be? It is not his duty to enforce the laws of Georgia, nor to protect her property. She maintains that she is able to do it herself. Nay, the still broader question presents itself—what right, on the ground assumed by Georgia and the Executive, have we to go upon the soil of Georgia to remove or bribe away a part of her subjects or citizens? What right to keep an agent there, or to pay them an annuity? Am I answered, it is done in pursuance of treaties? The treaties are declared unconstitutional and void. Sir, it happens now to accord with the interest of Georgia to permit it, but surely she will not bend her principles to her interest.

It has been urged against the Colonization Society, on very high authority, that it is unconstitutional for the United States to go into a State to remove a part of its colored population. In a very able report made to the Senate, I think at the first session of the twentieth Congress, I find the following argument:

"Before they leave this part of the subject, the committee will observe that the framers of the constitution most wisely abstained from bestowing upon the Government, thereby created, any powers whatever over the colored population, as such, whether this population was bond or free.

"If the United States possess the right to intrude into any State, for the purpose of withdrawing from thence its free colored population, they undoubtedly must exert practically the power of previously deciding what persons are embraced within this description. They must have the power of determining finally not only who are colored, but who are free persons. This committee believe, however, that any attempt, by the United States, to exercise such a power, would not only be a direct violation of the constitution, but must be productive of the worst effects."

Now, sir, it is not necessary to consider how far this argument applies to the operations of the Colonization Society. But on the principle that the Indian country is a part of the soil, and its occupants a portion of the people of the State, I confess I do not see how gentlemen who stand on the ground of State rights and strict construction of the constitution, can move an inch in this matter. What, sir, constitutional for the General Government to go into the counties of Georgia, into Hall and Habersham, to get the people of those counties together—people subject to the laws of Georgia—make a compact with them to move away in a body—take millions of money out of the treasury of the United States to effect this object—to enable the President to go upon the soil of Georgia, and buy off her people! In what part of the constitution, on the principles which gentlemen set up, is there a word to warrant such a policy, or to justify an appropriation of money to carry it into operation?

I know it has been answered, that it is constitutional to fulfil a compact. I must own that this mode of getting at a grant of power is, for statesmen who advocate a strict constitution, liberal enough. According to this principle, the General Government may enter into a compact to do an unconstitutional thing, and it thereby becomes constitutional. On the ground upon which this new Indian policy rests, the compact of 1802 was itself unconstitutional, and was so argued to be in the Senate last winter. If the soil and jurisdiction of this territory were already Georgia's, the United States had no right to interfere with it, not even to extinguish the Indian title on peaceable and reasonable terms. Unless the principles of the constitution vary with the complexion of those who are the subjects of its provisions, the United States have just as little right to enter into compact to extinguish the title of the

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red men of one county of Georgia, as that of the white men of another county. The gentlemen are actually obliged to come to us for principles on which they can remove the Indians. Unless the treaties are valid, the United States have no power to act in this matter. Gentlemen deny the validity of the treaties, in order to get at the soil; and then come back to the treaty-making power, to get the Indians removed from it.

The conduct which Georgia has pursued with respect to the gold, forcibly reminds me of the opposite course adopted by Mr. Jefferson, in reference to some iron mines discovered at the mouth of the Chickamauga, in Tennessee. Tennessee did not claim these mineral treasures, but the Indians themselves expressed a wish to cede these mines to the United States, for the purpose of having them wrought. Mr. Jefferson accordingly negotiated a treaty of cession for six miles square, including these mines, and gave the following reasons to the Senate as his inducement: "As such an establishment would occasion a considerable and certain demand for corn and other provisions and necessities, it seemed probable that it would immediately draw around it a close settlement of the Cherokees; would encourage them to enter on a regular life of agriculture; familiarize them with the practice and value of the arts; attach them to property; lead them of necessity, and without delay, to the establishment of laws and Government, and thus make a great and important advance towards assimilating their condition with ours."

But the seizure of the gold mines, violent as that measure is, beyond any thing that was or could have been apprehended, loses its importance, when contrasted with another act of great, of unexampled, and, I must add, stupendous injustice. I refer to the law which has passed the Legislature of Georgia, for the survey and disposal of the lands of the Cherokees. Let it be remembered, then,

1. That there is a boundary between the Cherokees and the States surrounding them, fixed by numerous treaties and by law.

2. Let it be remembered that the treaty of Holston, which was negotiated in 1791, on instructions previously ratified by a unanimous Senate, contains this simple and expressive pledge: "The United States solemnly guaranty to the Cherokee nation all their land not hereby ceded."

3. That, as late as 1817, this, as one of the previous treaties, was declared to be "in full force," with all its "immunities and privileges;" and that this confirmation is contained in a treaty, negotiated by the present Chief Magistrate, and unanimously ratified by the Senate.

4. And that the intercourse act makes it highly penal to survey the lands belonging or secured to any Indian tribe by treaty.

And now, sir, I hold in my hand a law of Georgia, authorizing the survey of the lands thus solemnly guaranteed; their division into districts and sections, and their distribution by a land lottery!

There is a provision in this act of Georgia, by which, if the President of the United States should execute his sworn duty, in enforcing the laws of the United States, he would subject himself to imprisonment for five years in the Georgia penitentiary; that being the punishment denounced by this State law on any person who shall obstruct the surveys, which it is most assuredly the duty of the President to do.

The law provides for the survey of the country into sections and districts. The sectional surveyors, twelve in number, are to proceed, with as little delay as possible, to the duties assigned them. The survey of the districts is to be suspended until the next meeting of the General Assembly, and until further enactments for that purpose. The number of district surveyors is one hundred and ninety-six, and the Governor is authorized to call out a military force to protect them in the discharge of their duties.

The only mitigation of the severity with which this bill acts on the Indians, is the provision contained in the thirty-first section. By this section, it is directed that "the Indians and their descendants, who have made improvements upon the territory, are to be protected in the possession of those improvements, and of the lots of land upon which the said improvements are made, until otherwise directed by the General Assembly, or until they are voluntarily abandoned by the Indian occupants. Indians not allowed to sell their right of occupancy to any person, unless it be to the Government of the United States, or the Government of Georgia, for the use of the persons drawing such improved lots in the lottery, and no grant to be issued until the Indians shall have abandoned the lots in their occupancy; the fortunate drawers of such improved lots to forfeit their draws, should they, by threats, or menaces, or violence, remove, or attempt to remove, any Indian from such improved lot."

How much this mitigation is worth, may be judged of, by considering that it exists only during the pleasure of the General Assembly, and that the evidence of the Indian occupants, and of all those able to support his title, is inadmissible in the Georgia courts. In this state of things, it little matters whether he be expelled at once, or his estate be thrown into a land lottery, to be drawn as a prize, and a "fortunate drawer" planted at his door, or dogging him, wherever he goes, till he voluntarily abandons his home.

Especially when we recollect that, objectionable as this law is, a still more objectionable and oppressive measure was proposed and strenuously advocated, and, if I am not misinformed, adopted, in the House of Representatives of Georgia. I derive my information from a letter written from Milledgeville, and published in the *Augusta Chronicle*. I know nothing of its author, but that, as appears on the face of the letter, he is a friend of the present administration.

*Extract of a letter to the Editor of the Augusta Chronicle, from a correspondent in Milledgeville, dated 27th November, 1830.*

"The particular question now and for several days past before the House, is the adoption of Mr. Hayne's substitute to the bill reported by Judge Schley, from the Committee on the state of the Republic. This contemplates, as you are aware, the taking immediate possession of the Indian lands, and forcibly driving the Indians therefrom. How such a bill can be the subject of a moment's consideration in a christian land, is to me the subject of the deepest astonishment, and yet many intelligent men believe and fear it may be successful. For my own part, I will not believe it possible, and indeed should scarcely credit the evidence of my own senses, if such were the fact. God forbid such a fatal consequence! and I will confidently rely on his overruling goodness and protection to avert it, to save the Indians—nay, tenfold more, to save our own State from the serious evils which must inevitably follow it. I must not trust my feelings further on this point; they are perhaps too deeply and unnecessarily wounded. We will at least hope so. One thing is certain, that no effort is or will be spared to prevent the adoption of the measure; and I am proud to see among its opponents many, very many, of the first and ablest men of the Assembly of both parties. Indeed, it is by no means a party matter, &c.

"Numerous as are the advocates of this measure, the array of talent against it is very powerful, and the arguments of its opponents are sound and incontrovertible. To say nothing of humanity; the want of necessity or expediency; the ingratitude of opposing the President and his administration, which have long been and still are making every possible effort in our behalf; the folly of now necessarily arraying them against us, contrary to their will, and of indirectly giving their and our enemy, Mr. Clay, still further and greater power against them; the imminent

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danger of a direct and violent controversy with the General Government, all of which are directly opposed to this measure, the faith and honor of the State stand openly and irrevocably pledged against it. But for this pledge given by our representatives, Mr. Wilde and others, on the floor of Congress, last session, against the exercise of any force against the Indians, any effort to drive them forcibly from their lands, the bill to encourage their emigration to the west of the Mississippi would not and could not have been passed."

This bill with some amendments passed the House of Representatives of Georgia, 76 to 55. I read this to show that it is not merely "the white savages of the North," nor the opponents of this administration, who condemn the course pursued by Georgia. But I do not find that the law passed is essentially better. The evil is only delayed. The lands improved by the Indians are not exempted from the lottery. An amendment to that effect was rejected, by a vote of nearly two to one; and after the lottery is drawn, the unhappy occupant is only to keep possession till "the fortunate drawer" can persuade him to go.

And now, sir, is there a member of this House, who can recollect that the United States have solemnly guaranteed this land to the Indians; that we guaranteed it for a valuable consideration, which we keep; that we guaranteed it voluntarily, unanimously, and before the compact of 1802, and not feel that the guaranty ought to be re-deemed; that the pledged faith of the country ought not to be violated?

I again appeal to gentlemen, who, without approving of the principles of this policy, gave their votes for the bill of last session, qualified as it was by the proviso, whether they would have lent their sanction to the measure, had they believed that, within a twelvemonth, a law would be passed by Georgia, to send any army of surveyors into the territory of the Cherokees, and to subject any person who should presume to execute your laws, to the punishment of the penitentiary, from the President of the United States down to the lowest officer in the service?

Why, sir, granting that all these treaties made by the United States are unconstitutional and not binding; granting the truly atrocious proposition, that we can break the treaty, and keep the consideration; granting that Georgia still possesses the power, which, if she ever had it, by adopting the constitution she gave up to the United States, and that things now stand as they stood under the old confederation, all this would not mend her title to these lands. Under the confederation, she admitted the right of the Cherokees to treat as an independent nation. She treated with them herself; the treaty of Augusta in 1783 stands in her statute book; and in that treaty, in words evidently of her own choosing, words of the English common law, she accepts a cession of land from the Cherokees, and in so doing recognises their right to cede, and to keep what they do not cede. I will read to the House the first and sixth articles of that treaty.

"Whereas a good understanding and union between the inhabitants of the said State and the Indians aforesaid are reciprocally necessary and convenient, as well on account of a friendly intercourse and trade, as for the purposes of peace and humanity; it is, therefore, agreed and covenanted—

"1st. That all differences between the said parties, heretofore subsisting, shall cease and be forgotten.

"6th. And lastly, they, the said headmen, warriors, and chiefs, whose hands and seals are hereunto affixed, do hereby, for themselves and for the nation they are empowered to, and do effectually, represent, recognise, declare, and acknowledge, that all the lands, woods, waters, game, lying and being in the State, eastward of the line hereinbefore particularly mentioned and described, is, are, and do belong, and of right appertain, to the people and Government of the State of Georgia; and they, the In-

dians aforesaid, as well for themselves as the said nation, do give up, release, alien, relinquish, and forever quit claim to the same, or any part thereof."

Now, what would have been thought of the transaction if, the day after signing this treaty and accepting this cession, Georgia had laid claim to all the rest of the land; had passed a law disposing of it; had gone into the country (supposing her to have been, what, at that period, she most assuredly was not, strong enough for that purpose) with an army of surveyors; and divided it out for distribution by a land lottery? It would have been thought an unparalleled breach of good faith.

But I will go further than this: Suppose there had been no treaty at all—not even a state of peace—suppose that the armies of Georgia had done what, at that time, it was wholly impossible for them to do—suppose they had overrun and conquered the land, even then the laws of nations and civilized warfare would not have justified this measure. Why, sir, as a war measure, and in the hot blood of victory, such a thing has never, in modern times, been heard of, as the forcible seizure of the entire domain of a conquered people, a partition of it into sections, the unoccupied part of which are to be immediately taken possession of, and the improved parts thrown into a lottery with the rest. It comes up to the precedent of the Norman conquest, and goes beyond the partition of Poland. I doubt if a single Polish proprietor has been disturbed in the possession of his estate, from the date of the first partition to the present day. Suppose that Russia, and Austria, and Prussia, in addition to extending their laws over the Poles, had enacted a code, under which it was admitted that they could not live, had cut up their lands into districts and sections, thrown their estates into a land lottery, granting to the proprietors no other privilege but that of occupancy, till they could be induced by legal duress and governmental persecution to emigrate to the deserts of Bucharia! What language would have furnished adequate terms for the condemnation of such a policy?

The very ground on which Georgia claims the right to pursue this course, is the strongest reason why she should not pursue it. Sir, she denies that they are an independent or even separate community. She says they are her citizens or subjects; calls them "her people;" constitutes them an integral part of her community; and then passes a law to distribute their lands by a lottery. Does not this show the injustice of the measure? Let her pass a law to dispose by lottery of the property of the people of Gatham and Effingham, of Richmond and Columbia; let her plant a "fortunate drawer" at the door of each man's shop and house, and the gate of his plantation, to worry him off to the foot of the Rocky Mountains. No, sir, the very process of reasoning, by which Georgia would withdraw the Cherokees from our protection, can serve only to bring them under her own, and is itself the most incontrovertible of all arguments against this oppressive policy.

But we live under a Federal Union, designed to bring all the States, to a certain degree, under one Government, and possessing tribunals of eminent jurisdiction, for the adjustment of controversies which are placed by the constitution within the province of such tribunals. What is the aspect of this affair, in reference to this Federal Union, and the authority of its tribunals?

Let it then first be borne in mind, that Georgia in 1789 voluntarily became a party to the constitution, "which is the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding;" and that it is also a provision of that constitution, to which Georgia is a voluntary party, that "the judicial power of the United States shall extend to all cases, in law and equity, arising under the constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

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Under her new laws, Georgia has proceeded to take the life of an Indian, for a murder alleged to have been committed on another Indian, within the Cherokee boundary. It belongs, in no degree, to my argument, to inquire into the guilt of this person. I have seen but an imperfect newspaper report of his trial, in a paper friendly to the policy of Georgia, which I mention only as authorizing the presumption that the report is probably not strained against Georgia. From that report, it appears that Corn Tassel (such is the name of this Indian; it is also the first Indian name subscribed to the great Hopewell treaty) was found guilty of murder, chiefly on evidence which would not be admissible against the life of a white man, (I mean Indian evidence,) and on the testimony of a white man, whose evidence is contradicted by the judge in his charge. Now, whatever may be said against the admissibility of Indian testimony in cases of property, I am clear that, in a case of life and death, as good evidence ought to be required to convict an Indian as a white man. The jury that puts an Indian to death, needs, I think, as clear a warrant of credible evidence against him, as the jury that puts a white man to death. The other testimony, to which I have alluded, is that of the officer who arrested Tassel, who testified that at first he talked only in the Indian language, but afterwards spoke English intelligibly. The judge, who sat in the trial, mentions it as a circumstance to be regretted, that the prisoner at the bar "could not understand him."

But though I am inclined to think there was not evidence to establish the malice, I waive that point entirely, and do not pretend that Tassel is an object of sympathy. I go upon the assumption that he was guilty, though I do not think that proved on the trial as reported. This "unfortunate" being, (as he is justly called by Judge Clayton,) on his trial before a court and jury, whose language he did not understand, pleaded by his counsel to the jurisdiction of the court. The ground of this plea appears to have been, that, under the treaties between the United States and the Cherokees, the latter were independent of the laws of Georgia. This plea was reserved for the consideration of all the judges. They overruled it, mainly on the ground that these treaties were unconstitutional, and could not bind Georgia.

Here the momentous bearings of the question begin to appear. Georgia decides that numerous Indian treaties, negotiated during nearly fifty years, sanctioned by every branch of the Federal Government, under every administration, and by Georgia herself, at whose request, and for whose benefit many of them were entered into, are all unconstitutional and void. Whence the courts of Georgia derived the power to decide on the constitutionality of treaties and laws of the United States, I do not know. Her constitution does not give it to her; and if it did, it would be a void grant, for Georgia is a voluntary party to the federal constitution made prior to her own.

The right of deciding in cases arising under the constitution, laws, and treaties, is one of the rights expressly granted by the people of Georgia to the federal judiciary. The allegation, that the Indian treaties are unconstitutional, is no more than might be made of any other treaties, that of Louisiana, for instance, (which was at first supposed by Mr. Jefferson and Mr. Madison to require an amendment of the constitution to carry it into effect;) and if the judges of a State can entertain the question of the constitutionality of the Cherokee treaties, I see no reason why they cannot do it in the case of any others.

It will easily be supposed, that the unfortunate being whose life was at stake, would be disposed by his counsel to maintain the validity of these treaties; and he accordingly applies for that writ of error, which, under the judiciary act, issues, as a matter of course, when duly demanded. This was a case arising under the law and the treaties, the validity of which was denied by Georgia, and

affirmed on behalf of the Indian. The citation issues in the usual form, the form in which it has been respected by the courts of the most powerful and enlightened States of the Union, who understand and love their rights as well as Georgia. This writ the Legislature of Georgia instructs the Governor and all other officers "to disregard, and with it every mandate and process that has been or shall be served upon him or them, purporting to proceed from the Chief Justice or any associate justice of the Supreme Court of the United States, for the purpose of arresting the criminal laws of this State."

In other words, Georgia repeals for herself a considerable portion of the 25th section of the judiciary act of Congress, and annuls, in all criminal cases, the 2d section of the 3d article of the constitution of the United States. Georgia, on the principles she has now asserted, has only to make it penal to do any act or thing under a law of the United States, and she thereby acquires exclusive jurisdiction over the subject, and annuls the law.

This is a much more compendious process than a convention of the people of a State, elsewhere proposed. And almost at the moment that this House resolves, by a majority nearly unexampled, that it will not repeal the 25th section of the judiciary act, Georgia repeals one-half of that section, and of the clause of the constitution on which it is founded. Where is this to stop? Is it to stop any where? What laws of the United States have not been declared unconstitutional? What laws and treaties will not be acted on, as if they were unconstitutional, if a process so summary is permitted to obtain?

I will observe, in conclusion, that, till the validity of these treaties has been settled by that tribunal which is alone competent under the constitution to entertain the question, and settled in favor of Georgia, Tassel could not be put to death by any lawful warrant. The very judge who tried him is made in the report to say that he "belongs to another nation." And, till it is settled by the competent authority, that this other nation is subject to the laws of Georgia, the death of Tassel remains illegal. At the same time I admit there may be difficulties in the case. The constitution is clear, but it is not certain that the judiciary act gives full force and effect to all the provisions of the constitution. But although there may be no remedy for the wrong done to the being whose life is taken, (if he has lost that life at a bar to which he was not amenable,) this want of remedy for the wrong proves nothing in favor of the right of Georgia. It is greatly to be lamented that she had not imitated the best part of the New York precedent, and granted a pardon or reprieve to Tassel. As a first case, a case of life and death, of an individual of a different nation and language, appealing to the faith of the Union, and asking only to be tried by that tribunal by which (if the treaties are indeed valid) he had a right to be tried, it is greatly to be deplored that a little time could not have been granted.

I will only add, that as there was a United States' force in the country when Tassel was arrested, and as Congress had just enacted in a law, which the President signed, that the treaties should not be violated, I think those troops would have been as well employed in protecting the life of a fellow-being, pending his appeal to the courts of the United States, as in driving the Cherokees from their own mines.

And here I may suitably consider the plea, that Georgia has done no more in this matter than other States, and particularly New York. No argument is more apt to be fallacious than the argument from analogy. There is great danger of mistaking slight and merely circumstantial points of resemblance for entire parallelism. I will examine this case briefly but fairly. I will admit the points where it is a precedent in favor of Georgia, and I will point out those where it is not; premising, that if the legislation of Georgia violates law and treaty, it by no means follows

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that the Government of the United States may withhold the protection which it owes, and which is demanded by those who are the victims of that legislation, because New York has adopted similar acts of legislation.

It is matter of surprise, too, if the legislation of New York affords a sanction to that of Georgia, that it was not insisted on sooner. Three great negotiations have been held by citizens of Georgia since the New York law of 1822, with the Creeks or Cherokees, and this precedent was never pleaded, as far as I can find, in the record of the negotiations.

Now let us compare the cases. New York, in 1822, passed a short law extending her criminal jurisdiction over the dwindling remnants of tribes within her borders, and there she has stopped. She leaves her Indians as she found them. She makes no attempt, by severe penal enactments, to break down the organization of their tribes. She has neither claimed nor surveyed their lands, nor seized their mines. As to the individual condemned by her courts, So-called, her assembly pardoned him. Her law, I understand, has not since been acted upon; and it is the opinion of the highest legal authorities in the State, that it leaves the rights and condition of the Indians where it found them. Here then are points of great and vital difference.

The New York law, in its terms confined to crimes and offences, was evidently intended, in its origin, to arm the State with power to protect the Indians against the evil of imaginary and superstitious crimes; a power, as the event shows, designed to be called forth only when such a peculiar occasion should require it. The Georgia code is one of civil and criminal jurisdiction, the last of a series of measures, having for its great and avowed object to effect the removal of the Indians. Hence, while New York stops at the claim of criminal jurisdiction, and does not, in point of fact, enforce that, Georgia enacts the severest laws against the entire social existence of the tribe, claims their lands, seizes their mines, and substantially drives them from her borders. If New York had gone into the Seneca reservation with a score of surveyors, declaring the alternative of removal to the West, or extinction, and drawing a lottery for their lands, the case would have been more nearly parallel. Accordingly we find, in the last place, that the Senecas never invoked our protection, because no practical evil was done or threatened; the Cherokees invoke our protection, because the choice is set before them, of subjection to State laws, under which they are told they cannot live, and removal to a desert, where they believe they must die. There is, therefore, the greatest difference in all the matters of fact, which give a character to the two cases. In point of equity and justice, the New York precedent could not of course alter the case, as one wrong affords no justification of another.

I will here also answer the argument drawn from the example of the colonies, and of the States, before the constitution. The argument from the practice of the colonies is of twofold aspect, looking to the question as one of humanity and of right.

First, as to humanity. Grant that the treatment of the Indians, by the colonies, was barbarous and cruel. We have lately been taunted with the fact, that, when taken as prisoners of war, they were sometimes sold as slaves to the West Indies; and our recollection has been refreshed with the circumstance, that, according to Cotton Mather, on occasion of storming an Indian fort, the huts within it took fire, and several of the wretched inmates were (as this author with detestable quaintness expresses it) "broiled" to death. These are the facts quoted against us. They were the incidents of a war of mutual extermination, between the colonies and a powerful savage foe. But I let that pass. What is gained by citing these facts? Suppose they prove the only thing they seem to prove,

that the early settlers of New England were a blood-thirsty race, and treated the Indians barbarously? Is any thing gained for Georgia, and her sister States, by proving that fact? Those who would get an argument to support their policy, out of the fact, that, in the seventeenth century, some Indians were sold to the West Indies as slaves, need not go so far back. The slave trade, till very lately, was carried on throughout the civilized world. All nations were stained with its guilt. The States of New England brought the slaves from Africa; the Southern States bought them into bondage. And what then? Is the traffic less atrocious? or is it inconsistent for any one, north or south, at the present day, to denounce and reprobate it?

Let me not, however, be thought to admit the charge of barbarity against the early settlers of New England towards the Indians. Some incidents occurred, in the perilous condition in which the colonists, in the early periods of their settlements, were placed, which I surely will not vindicate; but their conduct towards the Indians in the main was honorable and kind. The charges against them, from whatever quarter, are substantially unjust. They had a right to come to this continent; they were guided hither by the hand of the same Providence that had planted the Indians before them. There was room for both. Our forefathers had a right to a part of the soil, to be obtained by honest dealing with the natives. I have never pretended that the Indian had an exclusive right to all the land he could see from the top of a mountain, or over which the deer may fly before him in the chase. But what follows from this admission? That after we have made an agreement with an Indian tribe, and got all we need, and guaranteed the rest, we shall not be bound to the faith of our compact? I trust not.

How then is the question of right affected by the practice of the colonies? It is said they legislated over the Indians. But this is vague and general. I want something specific and distinct. Did they, after making a long series of treaties with the Indian tribes, fixing boundaries, accepting cessions, and guaranteeing unceded lands, did they turn round, declare those treaties null, break down the boundaries and seize upon the land, in time of profound peace, and under the pretence that the treaties were unconstitutional? This is the kind of precedent wanted; not one resting in mere political metaphysics.

But grant they did all this, (no part of which they did,) and grant they did it as independent States, before the constitution of 1789. All this would not help the argument. The States, under the confederation, were clothed with many attributes of sovereignty, which they gave up on entering the Union. They coined money, enacted navigation laws, imposed tariffs to protect manufactures. The right to treat with the independent tribes of Indians was not one of the rights ceded to the States, although conflicts existed between the Congress and some of the States as to the extent of their power in this respect. But all the sovereign powers I have enumerated were given up by the States in adopting the constitution. When Georgia adopted the constitution, the treaty of Hopewell was in existence, containing the most decisive guaranties of the rights of the Cherokees. Before the constitution, Georgia claimed the right of treating with the Indians; but afterwards never. She frequently has requested the United States to treat for her benefit, and the United States have done it. And now the argument is, that Georgia has a right to annul all these treaties, because, in former times, the colonies or the States extended their laws over the Indians!

But it is said that the late administration pursued the same policy of removing the Indians, and the friends of that administration are charged with inconsistency in now opposing it. No one denies that the late administration earnestly desired the removal of the Indians. It saw, what every body sees, the inconveniences incident to the resi-



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dence of the Southwestern tribes in the neighborhood of the States, so resolutely bent on acquiring their lands. It is well known that the project of colonizing them west of the Mississippi was submitted by Mr. Monroe to Congress, near the close of his administration, and again, with some modifications, by Mr. Adams in 1823. But it is a matter of equal notoriety, that neither the last administration, nor that which preceded it, contemplated the attainment of this object in any other way than by the joint and voluntary co-operation of the Indians themselves, and the United States. The idea that the States could annul the treaties, was never countenanced by the late President for a moment. It cannot surely be forgotten in what emphatic language, on a very trying occasion, Mr. Adams avowed his resolution to support the Indians in the rights secured to them by treaty and by law.

Georgia had passed a law authorizing the survey of a portion of Creek lands, ceded by the treaty of the Indian Springs, which the Senate of the United States had annulled, and not ceded by that of Washington. Mr. Adams immediately ordered the arrest and prosecution of the surveyors. Georgia declared a determination to support her surveyors by military force; and the President submitted the subject to Congress. In the message sent for that purpose, he used this language: "It ought not, however, to be disguised, that the act of the Legislature of Georgia, under the construction given to it by the Governor of that State, and the surveys made or attempted by his authority beyond the boundary secured by the treaty of Washington of April last, to the Creek Indians, are, in direct violation of the supreme law of this land, set forth in a treaty, which has received all the sanctions provided by the constitution, which we have sworn to support and maintain. In the present instance, it is my duty to say that if the legislative and executive authorities of the State of Georgia should persevere in acts of encroachment upon the territories secured by a solemn treaty to the Indians, and the laws of the Union remain unaltered, a superadded obligation, even higher than that of human authority, will compel the Executive of the United States to enforce the laws and fulfil the duties of the nation, by all the force committed for that purpose to his charge."

I may be permitted to add that this message, and other important documents in the Georgia controversy, were committed to a select committee of this House, of which I had the honor to be chairman, from which a report proceeded, supporting, in all points, the principles laid down by the President in the message I have just cited. It is obvious, therefore, that there is no foundation for the charge that the last administration was friendly to the policy of removing the Indians as now pursued. In fact, it is matter of surprise that a charge so notoriously groundless should be adventured. Had Mr. Adams done what is now pretended; had he countenanced Georgia, Alabama, and Mississippi, in their policy, the South would never have been consolidated, as it was, against him; and I much doubt if the chair of State would have been filled as it now is.

Sir, I think I have made out my case. I have shown that the Cherokee Indians have been invaded in the territory and rights secured to them by treaty and by law. In addition to the particulars which I have mentioned, there are others set forth in their memorial, well deserving the consideration of the House. Most of these, for want of time, I must pass over; but on two of them I will dwell for a moment. Georgia has contended for a boundary line, under the treaty of the Indian Springs, of 1825, (and in contravention of that of 1826 at Washington, by which the treaty of the Indian Springs was annulled,) which would take a million of acres of land from the Cherokees. The ground of this claim on the part of Georgia is, that the ancient boundary between the Creeks and the Cherokees was greatly to the north of the recent boundary; and that the Creeks and Cherokees, by compact between them-

selves, had no right to change it. If this were true, it would not affect the case, because the treaty of the Indian Springs, which gave Georgia all the Creek lands, being fraudulent in itself, could never have given any rights, and was solemnly annulled by the Senate, the present Secretary of War voting in favor of annulling it. Nevertheless, passing by the treaty of Washington, which fixed the boundary, and acting under that of the Indian Springs, which the Senate declared void, the President has undertaken to settle a new boundary, equally to the dissatisfaction of the Cherokees and Georgia; and has actually dispossessed the Cherokees, by a simple executive order, enforcing a treaty declared by the Senate to be fraudulent, null, and void, of four hundred and sixty-four thousand six hundred and forty-six acres of land, occupied, as they allege, by their tribe for generations.

I might also speak of the countenance which has been given to intruders, in establishing themselves on lands vacated by the emigrants to Arkansas, by which serious evils and constant vexations are occasioned to the Cherokees; but I forbear, for want of time, to dwell on the subject.

Nor is the order given last summer, to change the mode in which the annuities are paid, less vexatious. It has been called, and I think with justice, a small business. The annuity due to the Cherokees, amounts, I believe, to but six thousand six hundred and sixty-six dollars. It is by treaty due to the nation. Since the Cherokees took our advice, and established a regular Government, it has been paid to the treasurer of the nation. It constitutes a considerable part of the little revenue of the tribe. The President has seen fit to order its payment to the treasurer to be discontinued, and to be made hereafter to the Indians individually. It amounts to about forty-two cents for each of the population. It must of course be paid in specie. A part of the tribe live a hundred or two miles from the agency. Shall it be sent to them? Shall they travel this distance to receive their few cents? What is the object of this change? I have understood that it has been stated by the Secretary of War, in a letter published in the course of the last summer, that complaints had been made that some of the Indians are defrauded by their chiefs of their share. However this may be with other tribes, to which the same change extends, and of this I know nothing, I believe it is not so with the Cherokees. I have seen a letter from Mr. Montgomery, the Cherokee agent, dated last October, in which he declares that no such complaint has ever come to his knowledge. I hope there is no reason for the suggestion which has been made on very good authority, that this change in the mode of paying the annuities has been ordered, to deprive the Cherokee Government of the funds necessary to enable them to carry on the arduous and discouraging contest in which they are now involved with the Executive authorities of the United States and with Georgia.

I have confined myself, for the reasons stated in the outset, almost entirely to the case of the Cherokees. There is a memorial from the Creeks on our tables, from which it would appear that they suffer from the same policy. They are overrun with intruders, whom the Government of the United States does not remove; and the legislation of Alabama has been extended over them. I find the following account of it in a letter, apparently by a member of the Legislature of Alabama; "Tuscaloosa, (Alabama,) 9th January. The Indian bill, which has been passed in the House of Representatives, provides for extending over the different tribes within the territorial limits, the civil and criminal laws of the State, prohibiting them from enacting or executing any laws of their own—taxes their black population, between the ages of twelve and sixty, with a poll tax of fifty cents. The Choctaw and Chickasaw nations are, however, to be exempt from the operations of this act, so soon as the treaty concluded by their respective nations with the United States shall have been

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ratified by the Senate. This was a favorite amendment of mine, and it was all I could do to soften, in this very small degree, the rigor of the law."<sup>\*</sup>

With the Chickasaws and Choctaws treaties have been concluded under the law of last session, and, as I will demonstrate, in direct violation of its provisions.

Let me revert a moment to the history of the proviso contained in that law. The President's message took the ground that the Indians could not be protected against the legislation of the States. The reports of the Committees on Indian Affairs, in the two Houses, took the same ground. The bill did not directly grapple with that point; but, on both sides of the House, that was the point argued; and the great objection to the bill was, that it played into the hands of that policy. The House, as the event proved, was nearly in *equilibrium*: the bill passed by a vote of 102 to 97. In this state of division in the House, the gentleman from Pennsylvania [Mr. RAMSEY] moved an amendment, which prevailed. It provided, "that nothing in this act contained should be construed as authorizing or directing the violation of any treaty between the United States and any Indian tribe." Without this proviso, I am persuaded the bill could not have passed.

By this clause, the House solemnly provided that the treaties were constitutional, and could not be violated; and if, as it would seem, the President thinks them unconstitutional, I do not understand how he could sign the bill. He thought proper, by a special message, to guard the House against even construing a law passed at the last session, in a sense deemed by him unconstitutional; and, in appending his signature to it, it would appear that he has endorsed upon the official roll of the law a sort of qualifying reference to that message: an entirely novel, singular, and, as I think, unconstitutional step. In this case, he signs a bill, in which the constitutionality of the treaties is expressly recognised, although he deems them all null and inoperative.

With this act in his hand, and the half million in his pocket, the Secretary goes down to the Chickasaws and Choctaws, tells them that the President will not protect them from the legislation of the States; and, "under these circumstances," negotiates the new treaties. These treaties have not been submitted (not being as yet ratified) to the House of Representatives. From the best sources of information to which I have had access, I have been led to the opinion, that the tone of the Secretary's communications with the Choctaws was of the most urgent and imperative character. No one denies that the extension of State laws over the tribes is, of itself, a violation of all the treaties; but, in the case of the Choctaws, there were peculiar provisions in their treaties, which are contravened and broken. By the treaty of Doak's Stand, negotiated with that tribe in 1820, by the present Chief Magistrate and the worthy gentleman [Gen. HINDS] who now represents the State of Mississippi, it was, in the fourth article, stipulated as follows: "The boundaries hereby established between the Choctaw Indians and the United States on this side of the Mississippi river, shall remain without alteration, until the period at which said nation shall become so civilized and enlightened as to be made citizens of the United States; and Congress shall lay off a limited parcel of land for the benefit of each family and individual in the nation."

Some uneasiness on the part of the Choctaw nation appears to have been produced by this stipulation; and it was, accordingly, in the treaty with the Choctaws, negotiated at Washington in 1825, further provided, "that the fourth article of the treaty aforesaid shall be so modified as that the Congress of the United States shall not exer-

cise the power of apportioning the land for the benefit of each family or individual of the Choctaw nation, and of bringing them under the laws of the United States, but with the consent of the Choctaw nation!"

So unequivocal was the condition of the Choctaws, under these treaties, that the State of Mississippi decided, in 1826, that they had not a right to legislate for their own citizens, wandering into the Choctaw nation, fugitives from the justice of the State. In the face of these treaties, in the face of the proviso of the law under which he was acting, refusing expressly to authorize their violation, the Secretary goes to the Choctaws, tells them in substance that the old treaties will be regarded by the Executive of the United States as unconstitutional, and, knowing that their consent to remove depends upon this one fact and no other, he assures them the President will not enforce the treaties, and, under these circumstances, induces a portion of them (how large a portion, I know not) to cede the lands of the nation. To effect this object, there is great reason to believe that very large temptations were offered to the individuals possessing influence in the tribe.

Now, I say the law of the last session was conditional; and the appropriation contained in it was conditionally made. The condition was, that the treaties should not be violated. It is known to every gentleman in the House, that the sole consideration which induced the Choctaws to agree to remove, was the assurance of the Secretary, that the Government of the United States would not protect them from the violation of the treaties. It is unnecessary to press this matter much further. I have stated most of the grounds on which I rest the propriety and expediency of adopting my motion. It is admitted by the States that they consider these treaties as unconstitutional, and act accordingly.

The President acquiesces in this course, on the part of the States, although it is his sole duty, in reference to this matter, to enforce the law, of which these treaties are a part. Congress last winter made express provision against their violation. They are violated. Let us then either make provision to execute, or let us abrogate them avowedly. It is due to consistency, good faith, and common honesty.

The President has, with his annual message, sent us a letter from the superintendent of the Bureau of Indian Affairs, in which that officer states that the law of 1802 "is the principal one which governs all our relations with the Indian tribes," and recommends its revision and modification, to suit the changes produced by subsequent treaties, and other causes. The same message is accompanied by the letter from the Secretary of War, to which I have already referred; telling us that the provisions of that law are unconstitutional, and the President neglects to enforce them in favor of those tribes over which the States have extended their laws.

Let us, then, the Congress of the United States, if we think this law is constitutional, make provision to execute it; if we think it is defective, let us amend it. If we think it is unconstitutional, let us repeal it. That law, by which all our Indian relations are regulated, ought not surely to remain in its present state.

If the treaties are constitutional, let us enforce them. If they are unconstitutional, let us abrogate them; let us repeal the proviso of the last session; declare them null and void, and make what compensation we can to the deluded beings who, relying upon our faith, have, at different periods, ceded to us mighty and fertile regions, as a consideration for the guaranty contained in these compacts.

Sir, this is a dreadful affair. Heaven is my witness, that I would rather palliate than magnify its character; but I can think of nothing so nearly parallel to it, as the conduct of the British Government towards the native inhabitants of St. Vincent. This is a precedent from one of

<sup>\*</sup>Since this speech was delivered, I have understood that bills have been introduced in both branches of the Legislature of Alabama, to repeal the law extending the jurisdiction of the State over the Indians; with what success, I am uninformd.

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the worst periods of the British Government—that of the administration which drove America into revolution. It was a transaction on a small scale, in an obscure island, and toward a handful of men. But it left an indelible stigma on those responsible for it; a stigma on an administration, which nothing moderately unjust could disgrace; a stigma, which would have been as notorious as it was indelible, but for the overshadowing enormity of the treatment of America, which succeeded. If we proceed in this path, if we now bring this stain on our annals, if we suffer this cold and dark eclipse to come over the bright sun of our national honor, I see not how it can ever pass off; it will be as eternal as it is total.

Sir, I will not believe that Georgia will persevere. She will not, for this poor corner, scarcely visible on the map of her broad and fertile domains, permit a reproach to be cast upon her and the whole Union to the end of time.

As for the character of the country to which it is proposed to remove the Indians, I want only light. It was all we asked last session; all I ask now. I quoted then all the authorities, favorable as well as unfavorable, with which I was acquainted. The friends of the policy refused us the only means of getting authentic information on the subject—a commission of respectable citizens of the United States, sent out for the purpose. Since the subject was discussed last session, two more witnesses, not then heard, have spoken. Dr. James, who was appointed to accompany Colonel Long on his tour of exploration in this region, has thus expressed himself: "The region to which Mr. McCoy proposes to remove the Indians would, such is its naked and inhospitable character, soon reduce civilized men who should be confined to it to barbarism."

In 1827, before this question was controverted, a report was made by the commissioners appointed to lay out a road from the western boundary of Missouri to Santa Fe, in New Mexico. These commissioners report, that, in the whole line of their march, extending seven hundred miles, if all the wood which they passed were collected into one forest, it would not exceed a belt of trees three miles in width!

But all this does not change the question. It merely suggests the possibility of an alternative of evil. If all the land were as fertile as some small part of it probably is; if it were as safe from the wild tribes of the desert, as it is notoriously exposed; if wood and water were as abundant as they are confessedly scarce; if it were the paradise which it is not; so much the worse for the Indians—the miserable victims whom we are going to delude into it. The idea that they can there be safe is perfectly chimerical; and every argument to show that the land is good, is an argument of demonstration that they will soon be driven from it. If all these treaties cannot save them, nothing can. What pledges can we give stronger than we have given?

It is partly for this reason that I urge the House to settle the question; and the more plainly we meet it, if we settle it against the Indians, the more humane will be our conduct. If we intend to be faithless to all these compact, let our want of faith be made as signal and manifest as it can be.

Here, at the centre of the nation, beneath the portals of the capitol, let us solemnly auspicate the new era of violated promises, and tarnished faith. Let us kindle a grand council-fire, not of treaties made and ratified, but of treaties annulled and broken. Let us send to our archives for the worthless parchments, and burn them in the face of day. There will be some yearnings of humanity as we perform the solemn act. They were negotiated for valuable considerations; we keep the consideration, and break the bond. One gave peace to our afflicted frontier; another protected our infant settlements. Many were made when we were weak; nearly all at our earnest

request. Many of them were negotiated under the instructions of Washington, of Adams, and of Jefferson—the fathers of our liberty. They are gone, and will not witness the spectacle; but our present Chief Magistrate, as he lays them, one by one, on the fire, will see his own name subscribed to a goodly number of them.

Sir, they ought to be destroyed, as a warning to the Indians to make no more compacts with us. The President tells us that the Choctaw treaty is probably the last which we shall make with them. This is well; though, if they remain on our soil, I do not see how future treaties are to be avoided. But I trust it is the last we shall make with them; that they will place themselves beyond the reach of our treaties and our laws; of our promises, and our mode of keeping them.

There is one sad alleviation of the fate of some of these tribes. When the possessions of the rural population of Italy were parcelled out among the Roman legions, by a policy too similar to that which we are now pursuing towards the Indians, it was the pathetic inquiry of a poor shepherd, who was driven from his native soil, his cultivated farm, and the roof of his infancy,

*Impius hæc tam culta novalia miles habebit,  
Barbarus has segetes? En quis consecrimus agros!*

It will be some sad alleviation of the fate of these dependent allies, whom we are urging into the Western wilderness, that their lands, and their houses, their fields, and their pastures, their civilized, improved, and christian homes, will pass into the possession of their civilized and christian brethren; who, I doubt not, will do their best to mitigate the bitterness of the cup. "At some future day," should they escape the destruction which, as I think, impends over them beyond the Mississippi, some of their children will perhaps be moved by the desire to undertake a pious pilgrimage to the seats from which their fathers were removed. The children of the exile will not, I know, be turned unkindly from the door of the child of the "fortunate drawer." Here, they will say, are the roofs beneath which our parents were born, and for which our white brethren cast lots; here are the sods beneath which the ashes of our forefathers are laid; and there are the ruins of the council house where the faith of our great father was solemnly pledged to protect us!

Sir, it is for this Congress to say whether such is the futurity we will entail on these dependent tribes. If they must go, let it not be to any spot within the United States. They are not safe; they cannot bind us—they cannot trust us. We shall solemnly promise, but we shall break our word. We shall sign and seal, but we shall not perform. Let them go to Texas; let them join the Camanches, for their sakes, and for ours; for theirs, to escape the disasters of another removal—for ours, that we may be spared its shame.

Now, sir, I have done my duty. I have intended nothing offensive to any man, or body of men. I have aimed only to speak the truth, honestly and earnestly, but not opprobriously. If, in the heat of the moment, I have uttered any thing which goes beyond this limit, I wish it unsaid.

I am not without hopes that Congress will yet throw its broad shield over these our fellow-beings, who look to us for protection, being perfectly satisfied that, if the question could be presented free from all extraneous considerations to the decision of the House, it would be for the preservation of the treaties.

But, however this may be, I am confident that the time is not far distant when the people will be all but unanimous in this matter. I believe that even now, could it be freed from all defensive coloring, and submitted to the mighty company in the Union, of sober, unprejudiced, disinterested men, their voice would reach us, like a rushing storm from heaven. Rather than have this hall made the theatre of such a disastrous violation of the national faith, they would speak to us in a tone which would shake

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*Revolutionary Pensions.—Bill for the relief of Susan Decatur.*

[H. OF R.]

these massy columns to their base, and pile this canopy in heaps on our heads.

[Mr. E. addressed the House until near four o'clock to day; when, being evidently much exhausted, (having not long since recovered from a severe illness,) Mr. WAYNE and Mr. VANCE rose at the same moment, to request that he would yield to a motion for adjournment; which he did, and the House adjourned. Mr. E. therefore delivered a portion of the preceding remarks on the following Monday, when the subject again came up; but the whole of his speech is embodied above.]

TUESDAY, FEBRUARY 15.

## REVOLUTIONARY PENSIONS.

Mr. CHILTON, by instruction of the Committee on Military Pensions, moved a resolution to set apart Wednesday, the 16th instant, for the consideration of bills and reports respecting the claims for revolutionary pensions.

Considerable discussion took place on the resolution, principally as to the propriety of giving preference to this species of business, over the other important matters before the House, in which Messrs. CHILTON, HOFFMAN, TREZVANT, CRAIG, POLK, GRENELL, DRAYTON, and WICKLIFFE, joined. After an ineffectual motion of Mr. SPEIGHT to lay the resolution on the table, Mr. TAYLOR, for the purpose, he said, of preventing more time from being consumed on the resolution, than it would take to pass half of the pension bills, moved the previous question, which was carried, and the resolution adopted, (so modified, at the suggestion of Mr. WHITTELEY, as to confine its operation to bills, to the exclusion of reports.)

Mr. HAYNES, for the purpose, he said, of obtaining an opportunity of replying to some of the remarks of Mr. EVERETT, yesterday, on the Indian question, and returning some of the favors he had bestowed on Georgia, moved to suspend the rule which confined the continuance of that debate to Mondays, and to allow it to proceed to-day; but the motion was negatived by a large majority.

Mr. H., then referring to a case stated in the journals of last session, where the question on the reference of a petition, near the close of the session, was debated from day to day, asked of the Chair in what that case was distinguished from this, to justify a different practice? He knew of no rule of the House on the subject.

The SPEAKER was understood to reply that there was no positive rule which forbade the continuance of the debate from day to day; but the decision in the present case was founded on what was understood by the Chair to be the sense of the House, and the acquiescence of the House in that decision.

Mr. LECOMPTÉ then moved to suspend the rule, for the purpose of calling up his resolution proposing to limit the term of service of the judges of the Supreme Court; but the motion was rejected almost unanimously.

## BILL FOR THE RELIEF OF SUSAN DECATUR.

Mr. DODDRIDGE, according to notice, now moved a reconsideration of the vote of Friday last, by which this bill was rejected. Had the bill been so amended as to grant to the nieces of Commodore Decatur a portion of the sum of thirty-one thousand four hundred and twelve dollars, proposed to be allowed to his widow, he believed the bill would have passed; and it was to try it with such an amendment that he moved its reconsideration. He therefore hoped no gentleman would vote for the reconsideration who did not intend to vote for the bill if it should be so amended, as it would be a waste of the time of the House.

Mr. MERCER, lest that which was done by a full House, might be undone by a thin one, moved a call of the House; but the motion was negatived.

The question was then put on the reconsideration of the former vote, and was carried in the affirmative—yeas 99, nays 96; and the question therefore recurred on ordering the bill to a third reading.

Mr. MILLER moved an amendment to the bill, providing that twenty-one thousand four hundred and twelve dollars be paid to Mrs. Decatur, and ten thousand dollars to the daughters of Commodore Decatur's sister, Mrs. McKnight.

Mr. HAMMONS moved to strike out the words which particularized the nieces, so as to leave the grant to be divided amongst all the nieces of the deceased Commodore, his brother, John P. Decatur, having daughters equally entitled.

Mr. DODDRIDGE opposed the motion. His object was to provide for those who were brought up by Commodore Decatur as a part of his family.

The motion of Mr. HAMMONS was lost; and, on motion of Mr. HOFFMAN, the yeas and nays were ordered on Mr. MILLER's amendment.

Mr. McDUFFIE moved to amend the amendment, by adding thereto a provision, that an additional sum of ten thousand dollars be given to Mrs. Decatur, if, at the end of three years, that amount should not be claimed by the inferior classes provided for in the bill.

Mr. MILLER accepted the amendment; but, it being opposed by Messrs. WILLIAMS, TAYLOR, and DRAYTON, it was subsequently withdrawn.

The question was then put on Mr. MILLER's amendment, and agreed to by the following vote—yeas 100, nays 82.

Mr. WILLIAMS now moved to recommit the bill to the Naval committee, with instructions so to amend it, as to provide for distributing the one hundred thousand dollars appropriated according to the prize act.

Some debate arose on this motion, on the part of Messrs. WILLIAMS, CHILTON, and BARRINGER; when, to put an end to what he deemed further unnecessary discussion, as he presumed every member was prepared to vote on the bill,

Mr. POTTER moved the previous question; which, being sustained, it brought the question at once to the third reading of the bill.

The question was accordingly put, "Shall the bill be engrossed, and read a third time?" It was decided in the negative, as follows:

YEAS.—Messrs. Anderson, Barringer, Baylor, Beekman, Bell, Borst, Brown, Buchanan, Burges, Cambreleng, Campbell, Carson, Clay, Coleman, Condict, Craig, Crocheron, Crowninshield, Deberry, De Witt, Dickinson, Doddridge, Dorsey, Drayton, Dwight, Eager, Earll, Joshua Evans, E. Everett, Finch, Ford, Forward, Fry, Gilmore, Gordon, Green, Halsey, Hawkins, Hemphill, Hinds, Hodges, Holland, Howard, Ibrie, Thomas Irwin, Isacks, Jarvis, R. M. Johnson, C. Johnson, Leiper, Lent, Mallary, Marr, Martin, Thomas Maxwell, McCreery, McDuffie, Mercer, Miller, Mitchell, Monell, Muhlenberg, Nuckolls, Overton, Patton, Pearce, Pettis, Polk, Potter, Ramsey, Randolph, Rose, Scott, Smith, A. Spencer, R. Spencer, Sterigere, Stephens, Sutherland, Taliaferro, Varnum, Verplanck, Washington, Wayne, Weeks, C. P. White, Edward D. White, Wilde, Wilson.—90.

NAYS.—Messrs. Alexander, Allen, Alston, Angel, Armstrong, Bailey, Noyes Barber, Barnwell, Bartley, Bates, James Blair, John Blair, Bockee, Boon, Bouldin, Butman, Cahoon, Chandler, Childs, Chilton, Claiborne, Coke, Conner, Cooper, Cowles, Crane, Crawford, Crockett, Daniel, Davenport, John Davis, Desha, Draper, Dudley, Duncan, Ellsworth, George Evans, Horace Everett, Findlay, Foster, Gaither, Grennell, Hall, Hammons, Harvey, Haynes, Hoffman, Hubbard, Hughes, Hunt, Huntington, W. W. Irvin, Jennings, Johns, Kendall, Kincaid, Perkins King, A. King, Lamar, Lea, Leavitt, Lecompte,

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*Relief to Land Purchasers.*

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Lewis; Loyall, Lumpkin, Magee, Martindale, Lewis Maxwell, McCoy, Pierson, Rencher, Richardson, Roane, Russel, Sanford, W. B. Shepard, Aug. H. Shepperd, Shields, Sill, Speight, Sprigg, Stanbery, Standefer, Henry R. Storrs, W. L. Storrs, Strong, Swann, Swift, Taylor, Test, W. Thompson, John Thomson, Tracey, Trezvant, Tucker, Vance, Vinton, Whittlesey, Williams, Yancey.—99.

So the bill was again rejected.

#### RELIEF TO LAND PURCHASERS.

The House took up the bill from the Senate, supplementary to the act passed on the 31st March, 1830, for the relief of purchasers of public lands, and for the suppression of fraudulent practices at the public sales of the lands of the United States.

Mr. IRVIN, of Ohio, opposed the bill with much earnestness, and moved to strike out the second section.

Mr. CLAY, of Alabama, said, he hoped he should be indulged by the House in giving some explanation, and in the statement of a few facts, in reference to the bill under consideration. It will be perceived, said he, by all who have attended to the reading of the bill, that its provisions are intended to be supplementary to, and emendatory of, the law passed at the last session for the relief of land purchasers. That law has extended relief imperfectly, and very unequally. To those who bought land at fourteen dollars per acre, and upwards, which had reverted with the one-fourth paid thereon, patents were given, without further payment; whilst those who had purchased lands at less than fourteen dollars, which have since reverted, were required to pay additional sums per acre, varying according to the original price. So in regard to the relinquished land, however valuable it may be, or at whatever prices it may have sold, (and the prices varied from two dollars up to forty, fifty, and even as high as seventy and eighty dollars per acre, merely for agricultural purposes,) yet no higher price than three dollars and fifty cents per acre is required by the law for any class or portion of it, while none is permitted to be taken at less than one dollar fifty-six and a fourth cents. This is a variation of less than two dollars in all the different classes and grades, from the most inferior and unproductive to the most fertile and valuable. It is of the injustice and inequality of the operation of this law, that the memorialists, whose interests are embraced by this bill, complain.

It seems to me that this brief explanation of the principles of the law passed at the last session, would be a sufficient exhibition of its defects, to satisfy every mind that some amendment is demanded by that justice which regards the interests of all classes with equal favor. But, sir, as the bill has been attacked with such vehemence by the gentleman from Ohio, [Mr. IRVIN,] as he has thought proper to speak of the large amount which it proposes to give away, and has endeavored to impress the House with the idea that an immense interest is involved, and that the measure is one of unusually important character, I feel called upon to go further into the discussion. The advocates of the bill can lose nothing by investigation; for the better it is understood, the more conclusive will appear the justness and reasonableness of the claim urged by this unfortunate class of our fellow-citizens.

Sir, as this bill is intended to carry out the principles of the act of last session, already mentioned, and to equalize its operation, it may not be improper or unprofitable very briefly to review the grounds on which your interposition was asked, and upon which that measure was accorded. You had been memorialized year after year upon this subject, both by the people and the legislatures of the new States. Again: at the last session your attention was called to the various causes which had conspired to produce the unprecedented embarrassment and intolerable distress which prevailed more especially in the Southwest,

from which quarter came the petitions for the modifications of the law now proposed. You were reminded of the great inducement to purchase land in that section of the country—the production of cotton, the great staple of the South, to which the soil and climate were believed to be alike adapted; and that at the time of those sales (during the years 1818 and 1819) this staple was more in demand, and commanded a higher price than at any other period of our history, except in the two or three preceding years. You were called on to take into view the superabundance of the circulating medium in those years, occasioned, in no small degree, by the extraordinary multiplication of banks in every State and territory, particularly in the West, which were then issuing millions of money, in the shape of promises, never to be redeemed; and all this then receivable in your land offices. You were told of the five or six millions of “Mississippi stock,” the fruit of compromise with the “Yazoo claimants,” as they were familiarly called, issued by your authority and direction, to be received in the land offices of Mississippi and Alabama alone, which added greatly to the already delusive appearance of capital and prosperity in those States. They reiterated their well-founded complaints of the combinations of speculators, who crowded the different places of sale, for the purpose of monopolizing the lands which had been improved, and rendered productive by their toil, and industry, and enterprise; in consequence of which they were reduced to the alternative of giving prices the most extravagant, even for those extravagant times, or submit to be driven still further back into the wilderness, at seasons when ruin and starvation would have been the almost inevitable result to many of their families. After all this, when the currency of the United States had been reduced from about one hundred and ten millions to forty-five millions of dollars; when the Mississippi stock had almost entirely disappeared; when many of the banks had exploded, and the paper of nine-tenths of them was refused in payment, you abandoned the credit system, and sold your land for cash, at a reduction of 37½ per centum.

They turned your attention to another fact, which seems to me, of itself, conclusive of their claim to your equitable consideration—the sudden and unprecedented reduction in the value of their staple, its continued depression, and the consequent proportionate diminution in the value of the capital employed in its production. When the lands in question were sold, and for several previous years, cotton would readily command from twenty-five to thirty cents per pound; for some years past, the average price has not been more than one-fourth. As much land and as much labor are now required to produce a given quantity, say fifty thousand pounds of nett cotton, as then; but mark the difference in the sum received by the planter. At the price in 1813, (assuming twenty-eight cents as the average,) that quantity was worth \$14,000; at the price of the last four or five years, (assuming seven cents as a fair average,) the same quantity would only be worth \$3,500. Bear in mind, too, that the diminution in the amount of incidental expenses has not been in equal proportion; while cotton has gone down three-fourths, they have not been reduced more than one-fourth. Suppose the former amount of those charges to have been \$2,000, it would have left the planter's nett profit at \$12,000; take from the total product now \$1,500, being one-fourth less, and it leaves him only \$2,000, only one-sixth of the former profit. If the same quantity of land, with the same amount of capital and labor employed in its cultivation, will profit the owner but one-sixth, can it be worth one-fourth the price at which it might before have been reasonably estimated? That it is not, is as clear as demonstration itself; and the truth of the melancholy conclusion would be attested by the judgment of all who have lived in the region alluded to during the last twelve years.



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But, besides those facts, which were abundantly established by reference to the history of the country, it was shown by the official report of the Commissioner of the General Land Office, that the purchasers of land in Alabama had paid, for nearly half a million of acres which had reverted, an average price of one dollar and thirty-nine cents per acre, when your sales of about the same quantity, in the same State, during the three preceding years, had exceeded that average but three-tenths of a cent per acre, and when the average price of near a million and a half of acres, sold during the same three years in Indiana, Illinois, and Missouri, had fallen short of that average about fourteen cents per acre, having brought but one dollar twenty-five cents and six mills per acre.

In view of such facts, they called upon you to relieve them from their distress and embarrassment—to exempt them from the ruinous consequences of contracts, which had been made improvidently, but in good faith. Upon this candid and just exposition of the grounds on which they rested their claims, they asked you to suffer them to retain their homes, which they had improved by much labor and expenditure, at the fair value, as it had been ascertained by that most infallible of all tests—experience. They called on you as their brethren, and the representatives of their brethren in every section of their beloved country, to deal with them on the broad and liberal principles of equity and good conscience. They appealed to your sense of justice and your magnanimity. Thank heaven! their appeal was not wholly in vain; you did accord to them partial relief; many of them, perhaps the larger portion, are satisfied. Those who had purchased the most valuable lands were entirely relieved from the insupportable burden of debt which had been hanging over them for years, and threatening them and their families with bankruptcy and ruin. Those who had purchased inferior lands found in the law some mitigation of their grievances—a suspension of the sales of their homes, which were to have taken place in the ensuing spring and summer, and the harbinger, as they hoped and believed, of more equal and liberal justice at the present session.

The petitioners now complain that the act of last session “does not afford to them either an adequate or proportionate relief.” They disclaim all “invidious feelings at the good fortune of the holders of high priced lands, who are presented with patents on surrendering their certificates and paying the fees of office.” Nor do they complain “of the pre-emption rights granted to settlers on the public lands;” but they “view with surprise and regret the fact of their forming an isolated class, apparently excluded from the favor of Government.” They think (and it is certainly a reasonable opinion) that “if the object of Congress was to raise a certain amount from land debtors,” it was but “just that it should have been drawn in ratable proportions from all;” whilst, in point of fact, “the heaviest contributions have been levied upon the holders of low priced lands, generally consisting of the poorer classes of society.” Such is their language, and such are their views; and they are unquestionably founded in truth. Whoever has examined the enactments of the law complained of, and has understood its operation, will be ready to respond to the truth and accuracy of every ground assumed by the memorialists.

Sir, what do the petitioners ask? Simply that you will extend to them relief proportionate to that which you have extended to their more fortunate and more wealthy brethren and fellow-sufferers. They ask a measure of justice, equal to that which you have meted out to others, who are less needy, and have no better claims, on any fair principle. The basis, the very foundation of their claim is, that it is as fair to presume that reverted or relinquished lands, which originally sold for less than fourteen dollars per acre, brought, or rather exceeded, its proportionate value, as that those lands did which sold for higher prices.

And is not this assumption perfectly reasonable and well founded? Is it not a fair conclusion, that land, situated in the same section of country, put up at auction at the same time, in the same market, and in the same community, would sell according to its proportionate value, having reference to the quality of soil, situation, and all other incidents which enhance or diminish it? You must admit it, or agree that your mode of selling the public lands is entirely erroneous; for the auction system is predicated on the assumption that it is the true mode of getting the full and fair value of each tract of land.

Sir, it may not be improper to explain how this inequality was produced. Although the bill, as originally introduced, was less favorable to a large portion of the purchasers who sought relief, yet it was far more equal in its distribution. The influence which the favorable opinion and sanction of the Commissioner of the General Land Office would probably have on the action of the House, induced me to enclose to him a copy of the original bill, and ask him to examine its provisions, and give his views in reply. He did examine it, and approved its provisions in the main; but, in conclusion, remarked, “As those persons who purchased originally at very extravagant prices, say at fifteen dollars per acre, or upwards, may not be disposed to avail themselves of the first provision of the first section, and those of the second section, I would suggest the propriety of inserting a maximum price for those lands.” He accordingly returned the copy of the bill, which I had enclosed, with provisos inserted in the first and second sections, limiting the price of each class to three dollars and fifty cents, as it finally passed. I have the original letter of which I have spoken now on my desk, subject to the examination of any gentleman who may desire it. The Committee on the Public Lands were willing to report the bill as approved by Mr. Graham, while they had refused again and again to report, without amendment, the bill which had passed the Senate, fixing the price to be paid for both classes of land at one dollar and twenty-five cents per acre. Under these circumstances, what course was left to be pursued by the delegations from the new States? If they could not obtain all they thought required by the situation of their respective constituents, would they have been justified in rejecting that which was offered or could be obtained? I can answer more particularly for my colleagues and myself. All the reverted and relinquished land in Alabama had then already been proclaimed for sale in the months of May and June following. Our constituents were the great sufferers. Indeed, they had suffered more than the citizens of all the other new States together; and, in a sale at auction, they would have been obliged to encounter bands of speculators of every grade, from the capitalist who enters the market and buys on his own money, down to the contemptible hush-money dealer, who often swindles without money. Sir, a system of this character had grown up and been matured among us, and we had witnessed the baneful effects of its operation. No time was to be lost; for only a few days more than two months were to elapse between the time at which the measure was under consideration and the commencement of the sales. With this threatening array of evils before us, my colleagues and myself, on consultation as to the most discreet and prudent course for the interest and safety of our constituents, determined to pass the bill, if possible—not as the most just and equal measure which we could have asked or desired, but as the best that could then be obtained. We could not feel justified in the rejection of relief to one portion, because it could not be equally extended to all; and, if we had done so, we should have merited and received the execrations of all. For one, I should have felt it my duty to have obtained relief for any portion, however few, if nothing better could have been done.

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But, sir, whence comes this violent opposition to the bill on your table? From one of the Representatives from Ohio—from a Representative from a Western State, and of a people who have, doubtless, in some degree, once struggled with the same current of adversity which has so long threatened to overwhelm the people of Alabama. His constituents having escaped from the difficulty and danger which perhaps once embarrassed them, and obtained a secure footing on firm ground, he would look back upon us, still striving to extricate ourselves from the peril which surrounds us, and menaces our existence; and, so far from extending the helping hand, he would dissuade others from doing so. Sir, can this be consistent with the charity and magnanimity of the people of Ohio? Would they, because they are now independent, and may possibly have become so under a less liberal policy than we ask, be willing to refuse us assistance when our situation requires it? Would they deny aid to others, because they had not received it, (were it the fact,) or because they now stand in no need themselves? Sir, I am unwilling to believe it; and I will not ascribe to them a character so selfish and illiberal.

But the gentleman speaks of the prejudicial effect which is to be produced on the value of lands owned by individuals: he means what I have often heard him express, that such measures are calculated to unhinge the value of real estate. Whose interest is likely to be so affected? Not that of the planter or farmer, who usually has only the quantity of land he wishes to occupy and cultivate for the support of his family, and to rear and educate his children. Such men do not wish to sell; they do not regard the market price as matter of interest to themselves; they generally expect to live and die on the particular places which they have selected for residence; but, if they did, the cheapness of land elsewhere would be proportioned to the diminution of the value of their own, and would meet the wants and interests of their rising families. Would the gentleman insist, that, because some of us may have made hard bargains, and have given high prices for our lands, we should object to others getting theirs on reasonable terms? Sir, many of my constituents have given much more than the value of their lands; do they oppose the relief sought by their neighbors and fellow-citizens? By no means; but, on the contrary, would rejoice at their deliverance. I have given more than twenty dollars per acre for a portion of the land I cultivate, for which I could not now obtain five dollars per acre; but would I, on that account, refuse to let my neighbor have his land on just terms, or envy his good fortune were he to get it for less than its value, because the effect might be to cheapen mine? No, sir; far from it. Were I capable of such illiberal sentiments, such want of magnanimity, the high-minded and generous people whom I have the honor to represent, would spurn me—they would discard me from their confidence.

Sir, it is not interest of the farmer or planter that is to be affected by reducing the price of public lands, or extending relief to land debtors. It is only the interest of the speculator; the interest of the landmonger, who buys and sells for profit, and who has large quantities on hand, that can be injured by such measures; and they alone would be likely to complain. I will not charge the gentleman from Ohio with intending to represent the interest of large landholders and speculators, instead of that of the great body of the people; but I will state some facts, from which gentlemen can draw their own deductions, as to the effect of his course of policy.

Many years ago, certain grants were made to certain agents and directors of the "Ohio Company of Associates." I think the first was for seven hundred and fifty thousand acres, a second tract contained about two hundred and fourteen thousand two hundred and eighty-five acres, and a third contained one hundred thousand acres. All those

grants, I believe, were made to the same "Ohio Company of Associates," amounting to more than a million of acres. A grant was subsequently made to John Cleves Symmes for one million of acres, though afterwards modified, and the quantity somewhat reduced. Still another grant was made to the inhabitants of Gallipolis, for twenty-four thousand acres. There may have been other large grants to companies or to individuals, which I have not noticed; but those stated amount to about two millions of acres. Now, sir, much of this land may, and doubtless does, remain unsold; nor will it sell for profit while there is much land in market on reasonable terms. Consequently, it would be to the interest of individuals or companies, so situated, that no land should be brought into market; or, if any be offered for sale, that it shall be on terms so high as to make it the interest of purchasers to buy of them rather than of the Government. On the same principle, relief to purchasers who have made ruinous contracts ought not to be granted, or, if granted at all, on cautious terms, lest the value of real estate in the hands of individuals should be impaired. Such an interest as that to which I have alluded, is much better subserved by keeping up the price of the public lands, and by refusing relief to the purchasers under the credit system, than the interest of the great body of the people, or that of the Government.

Sir, the people of Alabama have paid a larger amount of money into the treasury, in proportion to the number of acres which have been sold within her limits, than those of any other State. By the report of a select committee, made in February, 1829, it appears that the whole quantity of land then sold amounted to twenty-one million six hundred and seventy-eight thousand one hundred and twenty-nine acres, for which the Government had received thirty-six million thirteen thousand four hundred and three dollars. Of that sum, Alabama had then paid seven million two hundred and seventy-four thousand seven hundred and forty-six dollars and twenty-four cents—being more than one-fifth of the total amount paid by all the other States, for a little more than three millions of acres, or about one-seventh of the aggregate quantity of land sold. Up to the same time, Ohio had paid about sixteen millions of dollars for about nine millions of acres. The average price paid by Ohio was one dollar and seventy-eight cents per acre, while Alabama had paid an average price of two dollars and twenty-four cents per acre, and exceeding the average price of Ohio forty-six cents per acre. If gentlemen will take the trouble to make the estimate, they will find the excess paid by the people of Alabama, over those of Ohio, for an equal quantity of land, according to this difference of price in the two States, amounts to nearly a million and a half of dollars. Is not this difference enormous to result from the sale of a little more than three millions of acres? Yet it is from a part of the representation from Ohio that we encounter the most prompt, decided, and unrelenting opposition to every measure proposed for the relief of purchasers in the State from which I come, and, I may add, to every measure which is calculated to favor the growth and prosperity of the new States generally.

Under this view of the subject, I appeal to gentlemen to say whether it is unreasonable to ask, or to expect, the relief contemplated by the bill under consideration. We do not propose to take a single acre for a less price than one dollar and twenty-five cents. We offer for this inferior land such price as you have received (deducting six mills per acre) for near a million and a half of acres, sold in three of the new States, in three successive years preceding the last session of Congress; and within a few cents of the price received for near half a million of acres sold, in the same three years, in the State which I, in part, have the honor to represent. We offer the same price for which you sold several hundred thousand acres during the last year, under the "act to grant pre-emption rights

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to settlers on the public lands," a large portion of which was, most likely, land of the best quality. Nor should it be forgotten that the individuals who now ask relief, and seek the award of justice at your hand, "generally consist of the poorer classes of society," as they have themselves remarked. This position is obviously true, judging from the nature of things, and the experience and observation of all. It is almost a necessary result of competition at a sale of lands to the highest bidder, that men of wealth should become the purchasers of the most fertile and valuable tracts, by the force of capital, driving those who are poor to the more inferior lands. But, sir, if reasoning be not sufficient to establish the fact, I have no hesitation in offering in its support the humble testimony of my own knowledge of its truth, as a general proposition, from personal observation. As I urged in the committee at the last session, and have repeated at the present one, the holders of this inferior description of land are the class of persons who, above all others, have had the hardest bargains from the beginning, and have the strongest claims to favor and indulgence.

Sir, in any just aspect in which the subject can be presented, the relief proposed by the bill is but fair and reasonable. The grounds on which it is asked are fully sustained by the facts and views which have been presented, whether considered in reference to the interest or true policy of the Government. The relief prayed is from contracts the most hard and inequitable, made under circumstances against the influence of which no man's wisdom or circumspection was a sufficient safeguard. I will not believe, until it is demonstrated by a vote of the House, that you will rigidly adhere to the unequal, unjust, and severe terms of the act of last session; or that you will deny relief commensurate with the most liberal principles of equity and good conscience.

Mr. BAYLOR also supported the bill, and replied to Mr. IRVIN.

Mr. IRVIN rejoined more at large against the bill.

Mr. WICKLIFFE commenced a speech in favor of the bill, and had spoken some time, when he gave way to a motion to adjourn; and

The House adjourned.

WEDNESDAY, FEBRUARY 16.

### THE JUDICIARY.

The House resumed the consideration of the resolution proposing to print six thousand additional copies of the reports of the majority and minority of the Judiciary committee.

Mr. DANIEL resumed the floor, and consumed the remainder of the allotted hour, in the continuation of his speech on the judiciary—[as reported on a preceding page.] When he had taken his seat,

Mr. BARRINGER gave notice that when this subject came up to-morrow, he should make a question of order, whether it was competent for members, on a simple motion, to print the reports, to go into a general discussion of the reports themselves, and the whole subject of the judiciary.

### SLAVE TRADE.

Mr. MERCER moved to suspend the rule of the House in regard to motions, for the purpose of enabling himself to submit a resolution requesting the Executive to enter into negotiations with the maritime Powers of Europe, to induce them to enact laws declaring the African slave trade piracy, and punishing it as such; but the motion (requiring two-thirds) was lost—63 to 54.

### REVOLUTIONARY SOLDIERS.

The House went into Committee of the Whole on the bill supplementary to the act of 1828, for the relief of certain surviving officers and soldiers of the revolution.

[This bill, as usual on all bills making general provision on the subject of pensions, gave rise to much debate; especially on the often discussed question of including the militia in the relief extended to the regular soldiers. The debate on this question arose on a motion by Mr. TUCKER, of South Carolina, to include the militia volunteers and State troops in the present bill, which was ultimately adopted, almost by general consent. The gentlemen who entered into the discussion (some of them repeatedly) were, Messrs. VERPLANCK, DAVIS, of Mass., WILLIAMS, TUCKER, TAYLOR, CHILTON, CRAIG, BURGESS, BATES, RICHARDSON, HUNTINGTON, SPENCER, of New York, McDUFFIE, A. H. SHEPPERD, STRONG, WILDE, CAMPBELL, ELLSWORTH, SPEIGHT, BARRINGER, POLK, and SWIFT. The following sketch embraces the principal features of the discussion.]

Mr. VERPLANCK, (on whose motion the House took up the bill,) said that the memorial of the parties was so succinct, and at the same time so expressive, that he should refrain from entering into an argument in support of their claims. He merely wished the memorial to be read.

The memorial was then read.

Mr. VERPLANCK explained the object of the bill. It went to give to those individuals who had retired from the service after the capture of Cornwallis, but before the conclusion of the war, the benefits of the pension act of 1828. He moved, in amendment, that such of them as had served two years and six months, should be included.

Mr. TAYLOR said, that when it was considered what a length of time had elapsed since these services were rendered, he thought that a service of two years might be considered sufficient to entitle the parties to the benefit of the act. He submitted a motion to this effect.

The motion was agreed to; and several other blanks in the bill having been filled up,

The subject was further debated by Messrs. VERPLANCK, TAYLOR, CHILTON, BURGESS, DRAPER, BATES, HUNTINGTON, DRAYTON, McDUFFIE, and A. H. SHEPPERD.

Mr. TUCKER then moved the amendment providing for an extension of the benefits of the bill to the militia of the several States who actually served for six months in the war of the revolution.

Mr. CHILTON moved that the committee rise, report, and ask leave to sit again, in order that the House might go into a Committee of the Whole on the military pension bills, as directed by the resolution passed on the preceding day.

Mr. WILLIAMS was in favor of extending the provisions of the bill to the militia of the States. He trusted that the committee would not rise until they came to a final decision on the subject.

Some discussion arose on a point of order, whether the question of a motion for the committee to rise was debatable.

It was decided by the Chair that the question of a motion to rise was not debatable.

The question was then taken on Mr. CHILTON's motion, which was negatived.

The subject under consideration was the amendment of Mr. TUCKER.

Mr. WILLIAMS resumed his observations in its support.

Mr. SPENCER, of New York, argued that if the amendment should be attached to the bill, it would, in his opinion, be indubitably lost in the Senate. It would be better that, if the militia should be compensated in the same manner with the regular soldiers, a separate bill on the subject should be brought before Congress.

Mr. McDUFFIE was in favor of the amendment proposed by his colleague, [Mr. TUCKER,] and he assured the gentleman from New York [Mr. SPENCER] that it was

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not with a view of defeating the bill, nor did he think it should produce that effect. He thought, if "six months" were stricken out, and "nine months" inserted in lieu, that the bill ought to pass. If the regular soldier who served in the revolutionary war, was entitled to the relief of Congress, he contended that the militia soldier, who was equally meritorious, was entitled to the same consideration. Since the year 1818, all regular soldiers who had served nine months in the revolutionary war, and were in needy circumstances, had received pensions. It is now only asked that the same provision shall be made for the militia man of equal merits, as was made twelve years ago for the regular soldier.

Mr. TUCKER had no objection to modify his amendment so as to place the militia on the same footing as the soldiers of the line who had served nine months:

Mr. STRONG suggested that if Mr. TUCKER should withdraw his amendment, and the words "of the continental line" were erased from the bill, it would include the troops of all descriptions who served in that war.

Mr. TUCKER declined to accept of any modification which would defeat his object. What that object was, he had before stated. It was to render one and the same justice to the regular soldier and the militia man. Mr. T. subsequently modified it so as the bill should read, to include volunteer State troops and militia.

Mr. WILDE adverted to the eminent services rendered by the militia; to the battle of King's mountain; to the deeds of Generals Marion and Sumpter; and to numerous other actions, in which the militia and State troops had distinguished themselves during the revolutionary contest, and contended that they deserved equally well of their country, with the continental troops.

Mr. CAMPBELL moved that the committee rise; but the motion was negatived.

Mr. TUCKER then modified his amendment, so as to provide for compensating the officers and soldiers of the militia in a proportion to the compensation allowed to the officers and soldiers of the continental line.

Mr. DAVIS, of Massachusetts, rose, and said his sentiments on this subject were so well known to most of the members of the committee, that it would be a work of supererogation to make a formal expression of them. It was well known that he was sincerely and ardently desirous of doing justice to all persons who belonged to the army of the revolution. He was anxious they should all be paid for their services; and, had it depended on him, this act of justice would not have been postponed to this late day. Important, however, as time is to the House, he felt himself constrained to make some reply to the gentleman from Georgia, [Mr. WILDE,] who, while he had done ample justice to the militia of the South, had not been equally true to history in his account of that class of troops in the North. The services of these men, said Mr. D., are so identified with the great achievements of the revolution, and so revered and cherished in the recollections of the population of the North, that they need no vindication there; but there are persons less familiar with the story of the revolution, who may be misled by the declaration of the gentleman that many of the militia of the North were out who did little service, and therefore are not entitled to the consideration of this Government. I know this assertion was made without the slightest intention of giving offence; but, as it does great injustice to this deserving class of persons, I cannot suffer it to pass unnoticed.

The militia of the North did no service! Who, sir, moved by the great impulses of patriotism and an ardent love of liberty, opened the great avenue of the revolution at Lexington? The militia. Who were they that volunteered their services against oppression, left the peaceful occupations of private life, and marched under the standard of freedom to Bunker's hill, and offered up

their lives in the great cause of liberty, when you had no Government to raise or pay an army, or even to protect your citizens from being executed as rebels and traitors if they fell into the hands of the enemy? The militia; and they carried on the memorable siege of Boston, and drove from the devoted State of Massachusetts the armies and navies of Great Britain. This is service enough to immortalize them—but their achievements did not end here. The triumph at Bennington stands emblazoned on the page of history; and who was there? The militia of the granite State. The militia too had a large share of the glory and honor of arresting the career of Burgoyne. The regular army was driven before him; but the men from the plough poured in to sustain them from all quarters, and the campaign ended by his defeat and surrender. They were at Rhode Island in the midst of the fight and the peril there. Indeed, it would be difficult to name any one achievement in the North during the revolution which signalized the war, that did not owe much of its success to the militia.

But this is not all: there were dark, forlorn, and almost hopeless periods of that war, when the country was without funds, without credit, without an army, and almost without hope. In these times, when you could offer no bounty to invite enlistment, when you had no reward to offer but the feeble hope of the future enjoyment of a free Government, the militia were summoned to the field to sustain the sinking interests of the country, and they obeyed the call. They bore you triumphant through these seasons of peril. They stopped not to ask for any assurance of pay—but it was enough for them to know that the country was in danger—for it was their country, and, if it fell, they fell with it.

What pay did they get for such important and patriotic services? Some received nothing, others received a miserable depreciated paper currency, mere worthless rags. The pay of many months, as many of these veterans have informed me, was insufficient to defray their expenses home from camp, when dismissed from the service. Now, sir, these were men who left their families behind them to suffer, and their affairs to go to ruin; and ought they not to be remembered by this Government, now that it is rich and able to do them justice, while many of them are not only old, but poor and needy? Sir, they have never been paid, and the appeal is not made to your bounty, but to your justice. They are not beggars, but rightful claimants, and it is a misnomer to call any grant made to them a pension upon your bounty.

I have made these desultory remarks to rescue the militia of the North from reproach; and while I am up, I will take occasion to say that I almost regret that the worthy gentleman from South Carolina has offered this amendment: for, as has been observed by the gentleman from New York, [Mr. SPENCER,] it may endanger the passage of the bill in the Senate, where measures of this sort encounter great opposition. I should have preferred to act on this matter by itself; but, as it is before us, and as the Senate will in no shape be bound by it, but can strike it from the bill if they see fit, I shall support the amendment, provided the mover will place the militia and the troops of the line on the same footing: for I am not willing to deal more favorably by one class than by the other, and I am sure the same measure of justice to all will be most acceptable. I hope, therefore, the amendment will be so modified, and it will then have my hearty approbation. I have omitted to say any thing of the provisions for the troops of the line, not because they do not meet my most cordial approval, but because there seems to be little opposition to that measure. Those troops did us great service, and certainly had most miserable pay. Like the militia, they took what their country could give, and cancelled the legal obligation, but the moral obligation is still in force.

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Mr. BURGESS supported the proposition, and the subject was further discussed by Mr. WILDE and Mr. BATES, the latter of whom suggested that a *pro rata* compensation should be allowed to all who had served, whether in the line or the militia, either for nine or six months. This he thought necessary to be done, and it was equally necessary that it should be done speedily.

Mr. TAYLOR moved an amendment, providing that the State troops, volunteers, or militia, who should at one or more times have served for two years, or for any period not less than six months, should be included within the benefits of the act.

Mr. ELLSWORTH opposed the amendment; but it was carried without a division.

Mr. SPEIGHT moved an amendment providing that the provisions of the act should only extend to those who are now, and may be hereafter, reduced to the necessity of applying to their country for support.

Mr. BARRINGER hoped his colleague [Mr. SPEIGHT] would not press his amendment. It would continue and increase the odious distinction at present existing in pension cases on the part of the rich and poor, by which the latter were obliged, were compelled to prove themselves to be paupers before they could be entitled to a reward for their services.

Mr. POLK said that he should vote for the amendment. The original pension law of 1818 contained a similar provision, as also did that of 1828.

Mr. TUCKER followed, and maintained that the pensioning of the militia was nothing more than the payment of a debt of gratitude due by the nation to those who had fought for and obtained its independence. He moved that the committee rise, and report the bill; but afterwards withdrew his motion by request.

The subject was further discussed by Messrs. A. H. SHEPPERD, SPEIGHT, BATES, and BURGESS.

The question was then taken on Mr. SPEIGHT's amendment; which was negatived by a vote of yeas 34, nays not counted.

On the motion of Mr. HUNTINGTON, a provision was adopted to allow to the widow or children of a deceased pensioner the balance of the semi-annual pension following his decease.

The committee then rose, and reported the bill as amended, and the House concurred in the amendments of the committee.

Mr. MCCREERY then submitted the following amendment:

*And be it further enacted*, That the provisions of the act for the relief of certain officers and soldiers of the revolution, passed the 15th day of May, 1828, shall not hereafter be extended to officers who were commissioned after the 30th day of December, 1781, unless they were in the service prior to the date of their commissions; and that all such officers who are now receiving pensions, be stricken from the roll from and after the passing of this act.

Mr. McC. said that he would, in a very few words, state his reason for offering to the consideration of the House this amendment to the bill. He said that it was notorious that commissions were granted to many after there was any active service performed, and that many of those who were thus commissioned, had not performed any kind of service prior to the date of their commissions, and, consequently performed none afterwards. He said that his attention had been called to this subject by a fact, which came to his knowledge some time last session, which was, that a certain presiding judge in Pennsylvania, through the influence of some of his friends, received a commission in the latter part of the year 1782, when he was quite a young man; and, although he never performed any duty, either before or after he was commissioned, is now receiving a pension. If this judge was a poor man, he would not make any objection, but this was not the case.

From the best information he was able to collect, he said, this judge was worth more than one hundred thousand dollars, and had an annual salary of sixteen hundred. He said that, in his opinion, it never was the intention of this Government to grant pensions under such circumstances, and suffer thousands of meritorious soldiers to drag out the remainder of their days in poverty and want. He said that he felt but little interest on this subject; but he felt it to be his duty to bring it before the House, and with their decision he would be satisfied.

Mr. DODDRIDGE moved the previous question; which, being sustained, cut off Mr. MCCREERY's motion.

Mr. SPEIGHT called for the yeas and nays on the previous question; but the House refused them.

Mr. LEWIS, of Alabama, moved a call of the House, but this also was negatived; and then

The question being put on ordering the bill to be engrossed, and read a third time, it was carried by the following vote:

YEAS.—Messrs. Anderson, Angel, Arnold, Bailey, Noyes Barber, Barringer, Bartley, Bates, Baylor, Beckman, Boon, Brodhead, Brown, Buchanan, Burgess, Butman, Cahoon, Cambreleng, Campbell, Chandler, Childs, Chilton, Clark, Coleman, Condict, Conner, Cowles, Crane, Crawford, Crockett, Creighton, Crowninshield, John Davis, Deberry, Denny, De Witt, Dickinson, Doddridge, Dorsey, Dudley, Duncan, Earll, Ellsworth, Geo. Evans, Joshua Evans, Horace Everett, Findlay, Finch, Ford, Forward, Gaither, Gilmore, Grennell, Halsey, Harvey, Hawkins, Hinds, Holland, Hoffman, Hubbard, Hughes, Hunt, Huntington, Ihrie, William W. Irvin, Jarvis, Johns, Richard M. Johnson, Kendall, Kincaid, Perkins King, Adam King, Leavitt, Lecompte, Leiper, Lyon, Magee, Marr, Martindale, T. Maxwell, McCreery, McIntire, Mercer, Mitchell, Muhlenberg, Overton, Pearce, Pettis, Pierson, Randolph, Reed, Rencher, Richardson, Russel, Sanford, Scott, Wm. B. Shepard, Aug. H. Shepperd, Shields, Semmes, Sill, Smith, Richard Spencer, Sterigere, W. L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, John Thomson, Tracy, Tucker, Varnum, Verplanck, Washington, Weeks, Whittlesey, C. P. White, Edward D. White, Wilde, Williams, Wilson, Yancey, Young.—126.

NAYS.—Messrs. Alexander, Alston, Armstrong, Barnwell, James Blair, John Blair, Bockee, Claiborne, Clay, Coke, Craig, Crocheron, Davenport, W. R. Davis, DeSha, Draper, Drayton, Foster, Fry, Gordon, Haynes, Howard, Cave Johnson, Lamar, Lea, Letcher, Lewis, Loyall, Lumpkin, McDuffie, Nuckolls, Polk, Potter, Roane, Speight, Sprigg, Standefer, Wiley Thompson, Trezvant, Vance, Vinton, Wayne, Wickliffe.—43.

The House then adjourned.

THURSDAY, FEBRUARY 17.

THE JUDICIARY.

The House resumed the consideration of the resolution proposing to print six thousand additional copies of the reports of the majority and minority of the Judiciary committee.

Mr. FOSTER rose, and intimated an intention of taking a course of some latitude on the general question, in the remarks which he should offer; when

Mr. BARRINGER rose to a question of order. He desired to know of the Chair whether, after a subject had been before the House, and finally acted on, (as the bill to repeal the 25th section of the judiciary act had been,) it was in order for members to go into the merits of that subject, on an incidental question to print a document.

The SPEAKER replied, that it was not possible for the Chair to prevent members from going into the merits of the reports, to show why an extra number ought or ought not to be printed. They must be permitted to do



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so if they chose, however much the House or the Chair might regret it. It was a constitutional right which the Chair could not restrict. On the question simply to print the reports for the House, the debate would not be in order; but, on a motion to print an extra number, the debate on the merits could not be restrained by the Chair.

Mr. BARRINGER would not contest the decision of the Chair, although he still thought the latitude taken in the debate irregular, and would be glad if some gentleman would suggest a mode by which the sense of the House might be taken on it.

Mr. FOSTER then resumed, and entered into a review of the proceedings which had been had on this subject. Several weeks ago, the Committee on the Judiciary were instructed, by a resolution of the House, to inquire into the expediency of repealing or amending the 25th section of the judiciary act of 1789. Scarcely had this resolution passed, when an alarm was sounded through the newspapers, and the people were warned that a deep and fatal blow was meditated against the great judicial tribunal of the country. The committee were denounced even in anticipation; and we were threatened with the reproaches and indignation of the people, if we presumed to touch this hallowed law. But a majority of the committee, acting under a conscious sense of duty, had the temerity, in the midst of these alarms, and in the face of this galling fire from the press, to make a report recommending the repeal of the section in question, accompanied with a bill for that purpose. The minority of our associates, under a sense of duty equally conscientious, have submitted the counter report which is now on the table.

The bill thus reported, said Mr. F., it was expected would have taken the usual course; but, instead of this, even its second reading was objected to, and its rejection moved, and, on this motion, the previous question was ordered: so that all opportunity of discussing its principles was entirely prevented; and this, too, after a remark by the honorable gentleman from Virginia, [Mr. DODDINGE,] that the bill reported was equivalent to a motion to dissolve the Union. Sir, we were not even allowed to repel the imputations thus cast on us.

[Here the SPEAKER reminded Mr. FOSTER that it was not in order to allude to the bill which had been reported by the committee, nor to the proceedings of the House with regard to it. He must be confined to the principles contained in the reports proposed to be printed.]

Mr. F. resumed. In order to confine himself to the limits prescribed by the Chair, he must pass over some remarks he intended to have made, and come immediately to the reports.

The majority of the Judiciary committee, of whom, said Mr. F., I am one, maintain that the twenty-fifth section of the judiciary act of 1789 confers upon the Supreme Court of the United States powers not authorized nor contemplated by the constitution. It is my purpose to present some views, in addition to those embraced in the report, to establish this position. And, in the outset, I will notice an argument with which we are so often met on questions of this kind. The law, of which the section under consideration is a part, was passed shortly after the adoption of the federal constitution. Many of the members of the Congress by which it was enacted, were also members of the convention which framed the constitution; they, we are told, certainly knew what powers were intended to be conferred on the different departments of the Government, and would not have attempted to confer powers not authorized by the constitution. Mr. Speaker, there is much force in this argument. I place great reliance on the exposition of constitutional powers made by those who aided in the formation and adoption of the great charter of this Government. But, sir, the argument in this instance proves too much for our adversaries—it applies with equal force to every part of this judi-

cary act; and yet one clause of it has already been declared by the Supreme Court to be unconstitutional. The 13th section of that act provides, among other things, that the Supreme Court "shall have the power to issue writs of mandamus in cases warranted by the principles and usages of law, to any courts appointed or persons holding office under the authority of the United States." But, in the celebrated case of *Marbury versus Mr. Madison*, as Secretary of State, the Supreme Court determined that the authority thus given was not warranted by the constitution. So, sir, gentlemen must admit that the passing of this law by the framers of the constitution and their contemporaries is not conclusive as to its constitutionality, or that the Supreme Court have erred in their decision—a heresy which charity itself would scarcely tolerate at this day.

But, Mr. Speaker, I will call the attention of the House to another section of this act. The constitution declares that "the judicial power (of the United States) shall extend to all cases in law and equity, arising under this constitution" &c.; and, after enumerating other subjects of jurisdiction, specifies "controversies between citizens of different States." The clause first read is general; the power extends to "all cases in law and equity, arising under the constitution," &c., and even the latter clause is entirely unqualified; no particular class of "controversies between citizens of different States" is designated, and no power is given to Congress to limit the jurisdiction of the court. And yet, sir, in providing for the exercise of this jurisdiction by the circuit courts of the United States, "in suits of a civil nature at common law, or in equity, where the United States are plaintiffs, or an alien is a party, or the suit is between a citizen of the State where the suit is brought, and a citizen of another State," the eleventh section of the judiciary act requires that the matter in dispute should "exceed, exclusive of costs, the sum or value of five hundred dollars." Will any gentleman show me where the authority is given to regulate the power of the courts, or the rights of the parties, by the amount in controversy? What clause of the constitution gives Congress the power to throw open the doors of the federal courts to an individual who has a demand of six hundred dollars, and close them against him who claims only four hundred? None, sir; there is no such clause; the distinction is entirely arbitrary and unauthorized.

Sir, there is another section of this act, which merits some consideration. The twelfth section provides, that, "if a suit be commenced in any State court against an alien, or by a citizen of the State in which the suit is brought against a citizen of another State, and the matter in dispute exceeds the sum of five hundred dollars, and the defendant shall, at the time of entering his appearance in such State court, file a petition for the removal of the cause for trial into the next (United States) circuit court to be held in the district where the suit is pending," then, on certain conditions, the State court is prohibited from proceeding any further, but the cause shall be removed to the circuit court, "and then proceed in the same manner as if it had been brought there by original process." Mr. Speaker, in my view, this is a most extraordinary provision. Here is an instance of a court's being ousted of its legitimate jurisdiction, without being permitted to pronounce a judgment, and that without the consent of one of the parties. I say its legitimate jurisdiction—for it is not pretended that the cause which may be thus removed is not cognizable by the State court. If this were the case, the party would have only to plead to the jurisdiction of the court, and terminate the suit at once. But the law, from its phraseology, evidently contemplates causes in which the State courts have concurrent jurisdiction with the courts of the United States; and, if the defendant chooses to submit to the jurisdiction of the State court, and permit his cause to be tried, its judgment would, doubtless, be valid and binding. Here, then, the court is

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dependent on the consent of the party for the exercise of its jurisdiction. I repeat that this is a most extraordinary provision, and, so far as I am informed, without a precedent: certainly the country from which we derive most of our principles of jurisprudence furnishes no similar proceedings, and I am not aware that there are any in any of the States where they have courts of different grades, possessing, in many instances, concurrent jurisdiction. I will not say that the law giving this privilege of removing a cause from the State to the United States' courts, is contrary to the constitution; but I cannot believe that such a proceeding was contemplated by the framers of that instrument. I have referred to these different sections of the judiciary act, sir, for the purpose of showing how much is wanting of that perfection which is imputed to it, and to lessen that sanctity which is attempted to be thrown round it. I now proceed to the consideration of the section more immediately in question—that section which gives to the Supreme Court its omnipotent powers.

The twenty-fifth section of the act referred to declares that "a final judgment or decree in any suit in the highest court of law or equity of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under, any State, on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favor of such their validity," &c., "may be re-examined, and reversed or affirmed, in the Supreme Court of the United States upon a writ of error," &c. The first idea that suggests itself to the mind, in reading this section, is, the distinction made between the parties to the suit, in allowing an appeal. An action is brought in a State court; the defendant sets up, in his defence, a treaty, or the constitution, or a law of the United States. If there be a right of appeal to the Supreme Court from the decision which may be made, it must be derived from that clause of the constitution conferring on the Supreme Court its appellate powers; but that clause extends the power to "all cases in law or equity, arising under the constitution, the laws of the United States, and treaties made under their authority;" whereas this twenty-fifth section confines it to cases where the decision shall be against the validity of the treaty, constitution, &c. The case, then, so far as regards the Supreme Court, arises under the decision of the State court, and not under the constitution or treaty. The party who sets up this defence has a double advantage: if his plea is overruled, he appeals to the Supreme Court, where the decision may be reversed; but, if it is sustained, his adversary has no resort—the judgment of the State court is final. Is there not manifest inequality and injustice here? And will gentlemen tell us by what forced construction of the constitution (that convenient auxiliary of the advocates for power) they establish the right of Congress thus to discriminate between individuals prosecuting their rights in our courts of justice? Sir, this is the law on which, we are gravely told, the union of these States depends—the provisions of which are so perfect, and its character so sacred, that, in the opinion of the honorable gentleman from Pennsylvania, [Mr. CRAWFORD,] even to touch it is profanity!

I come now, said Mr. F., to the principal, and much the most important, feature of this celebrated section—the power it confers on the Supreme Court to re-examine and reverse the judgments of the State courts. And here, sir, the simply inquiry is, whether this power is given by the constitution. For, if it is not, it will not be contended that it can be conferred by statute. On the contrary, if the constitution does give the power, a repeal of this section would not prevent the exercise of it by the court. The powers and duties of the different departments of

the Government are specified and defined by the constitution; the mode of their exercise is, in many instances, prescribed by statute. If the twenty-fifth section of the judiciary act had merely pointed out the manner in which appeals should be taken to the Supreme Court, there could be no objection to it—it would then only have been necessary to turn to the constitution, and ascertain to what cases, and from what tribunal, this right applies. But our objection is, that, by this section, powers are conferred on the Supreme Court, not authorized by the constitution, and alarming to the rights of the State courts, and to the sovereignty of the States.

The first argument which I would urge, (and to my mind it is perfectly conclusive,) to show that the constitution does not give the Supreme Court the right to review and decide upon the judgments of the State courts, is, that that power is not specified in the constitution itself. The powers of the Federal Government are divided into three departments, legislative, executive, and judicial. The powers assigned to each are specified and defined—and to none of the departments more particularly than to the judicial. Very extensive (and I will add alarming) powers are given to it; yet they are specifically enumerated. The agents, too, by whom these powers are to be administered, are pointed out—by "one Supreme Court, and such inferior courts as Congress may, from time to time, ordain and establish."

Let it be remembered that, throughout the constitution, there is not the slightest connexion indicated between any of the departments of the Federal with similar departments of the State Governments. No such connexion was intended, and, least of all, a supervisory power over any departments of the State Governments, acting within the sphere of their retained sovereignty. Have gentlemen forgotten the proposition made in the federal convention to vest Congress with the power to negative the laws of the State Legislatures? And can there be a doubt that an effort to give the federal judiciary the power to revise and reverse the judgments of the State courts would have shared the same fate? Sir, the jealousy and apprehensions entertained by the friends of the rights of the States, at the powers proposed to be given to the General Government, are matters of history, and how well founded they were, let history answer.

But, sir, there is another reason, which is very satisfactory to me that this right of appeal from a State to the United States' court was not understood, at the formation of the constitution, to have been given; and that is, that, in the debates of the State conventions on the ratification of the constitution, there is no reference to this power. Had such been the understanding, the clause supposed to confer it could not have passed unnoticed. What, sir, a clause which has the tendency, not only to prostrate the dignity of State courts, but to humble the sovereignty of State Governments, at the foot of this august tribunal, not to have elicited even a passing remark! When every part of the constitution was so scrutinized, and almost every power proposed to be conferred so zealously resisted by those jealous advocates of State rights in the Virginia convention, can it be believed that this overshadowing, this omnipotent power, would have excited no apprehension? Sir, if the keen and eagle eye of Patrick Henry had but detected it lurking under those terms, "appellate jurisdiction"—had he imagined that it referred to appeals from State courts, he would have exposed and denounced it—and in that glowing and powerful eloquence which was so peculiarly his own, he would have warned his countrymen of "the chains that were forging for them."

But, said Mr. F., I have some other evidence, of rather a more direct and positive character; and to this I particularly ask the attention of the gentlemen from New York. The convention of that State which ratified the federal constitution proposed a number of amendments, and among

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them was the following: "That the Congress shall not constitute, ordain, or establish any tribunals of inferior courts with any other than appellate jurisdiction, except such as may be necessary for the trial of causes of admiralty and maritime jurisdiction, and for the trial of piracies and felonies committed on the high seas; and in all other cases to which the judicial power of the United States extends, and in which the Supreme Court of the United States has not original jurisdiction, the causes shall be heard, tried, and determined in some one of the State courts, with the right of appeal to the Supreme Court of the United States, or other proper tribunal, to be established for that purpose by the Congress, with such exceptions, and under such regulations, as the Congress shall make." Now, sir, can we have any doubt of the opinion entertained by this convention as to the appellate power conferred on the Supreme Court by the constitution? Will gentlemen believe that that convention of sages would have gravely proposed to amend the constitution so as to confer powers already granted? Sir, no man can believe it. They conceived, as the majority of the Judiciary committee now allege, that this constitution did not give this right of appeal; and, for the expression of this opinion, we have been denounced in unmeasured terms. Sir, gentlemen must pardon me when I tell them they have not examined this question; they have been alarmed by the clamor which was raised, and were afraid to suffer even a discussion of the subject, lest they too should be classed with the nullifiers, traitors, and disunionists.

[Here Mr. FOSTER's remarks were suspended, by the expiration of the hour allotted to the consideration of resolutions.]

On a subsequent morning, Mr. F. resumed his argument, by correcting a mistake which he had made when he previously addressed the House. In reference to the provision of removing certain cases from the State courts to the United States' circuit court, previous to any judgment being rendered, I stated, said Mr. F., that I believed this was a provision perfectly anomalous; that there was no precedent for it in England, nor in any of the States. I have since understood that in some of the States cases may be transferred from the court in which they were commenced to one of a higher grade. I make this correction, because I do not wish to found an argument on any croneous assumption of facts. There is, however, a wide difference between removing cases from one court to another of the same State, and a removal from a State court, clothed, by the constitution of its own State, with power to hear, and finally determine, the cause, to a court of the United States. Between the former, by the constitution of the State, there is a direct connexion; not so with the latter. And although it was competent to the framers of the constitution to have given this right of removing a case from the State to the United States' court, I cannot conceive that that right is fairly inferrible from the constitution as it now stands.

But if this right does exist, and if Congress may now, by law, provide for its exercise, it furnishes one of the strongest arguments against the right of appeal from the judgment of a State court. For if a party, on being sued in a State court, may remove the cause to a federal court, and does not choose to avail himself of his privilege, he cannot complain of the judgment which may be rendered; he has voluntarily submitted to the jurisdiction of the State court, and should, therefore, be bound to abide the decision. The plaintiff having selected the tribunal to adjudicate his rights, would have still less cause of complaint if that decision should be against him.

The disrespect shown to the dignity of State courts, by subjecting their judgments to reversal by the Supreme Court, is a matter of little importance to those who regard them as inferior or subordinate to the federal tribunals; but, sir, regarding, as I do, the State institutions, while

acting within the sphere of the sovereignty retained by the States, as subordinate to no power whatever, I never can consent to see them thus degraded in rank, and shorn of their rights.

There are some other clauses of the constitution conferring jurisdiction on the Supreme Court, the meaning and extent of which I will take this occasion to examine, as they are intimately connected with the subject of this investigation. I am the more gratified at having the opportunity to do so, because it will enable me to enter into the defence of certain principles which have long been maintained by the State of which I am an unworthy representative; principles which she holds most sacred, and which she will not tamely yield. But I will not fatigue the House with an argument of my own. No, sir, I will not rely on my own feeble arm, when I have weapons so much more powerful and effective within my reach. Sir, when I present the recorded opinions and expositions of James Madison and John Marshall, I know they must command the respect of this House; and it is a source of no little pride and gratification, that most of the prominent principles for which Georgia has contended, in her controversies with the General Government, are amply supported by the opinions of these distinguished men.

The first clause of the constitution, to which I refer, is that which gives to the Supreme Court jurisdiction in "controversies between a State and citizens of another State." Now, let us hear the reason why this power was conferred. I give it in the words of Mr. Madison, and particularly invite the attention of gentlemen who place so much reliance on the exposition of the constitution made contemporaneously with its formation. I read from Mr. Madison's speech in the Virginia convention, in reply to gentlemen who were vehemently opposed to the ratification of the constitution: "Its (the federal court's) jurisdiction in controversies between a State and citizens of another State," says the gentleman, "is much objected to, and perhaps without reason. It is not in the power of individuals to call any State into court. The only operation it can have, is, that, if a State should wish to bring suit against a citizen, it must be brought before the federal court. It appears to me that this can have no operation but this, to give a citizen a right to be heard in the federal courts; and, if a State should condescend to be a party, this court may take cognizance of it."

What says Mr. Marshall on the same subject? "With respect to disputes between a State and citizens of another State, its (the federal court's) jurisdiction has been decryd with unusual vehemence. I hope no gentleman will think that a State will be called at the bar of the federal court. Is there no such case at present? Are there not many cases in which the Legislature of Virginia is a party? And yet the State is not sued. It is not rational to suppose that the sovereign power shall be dragged before a court. The intent is, to enable States to recover claims of individuals residing in other States. I contend this construction is warranted by the words. But, say they, (gentlemen who had objected to this power,) there will be partiality in it, if a State cannot be defendant—if an individual cannot proceed to obtain judgment against a State, though he may be sued by a State." What is Mr. Marshall's reply to this objection? "It is necessary to be so, and cannot be avoided. I see a difficulty in making a State defendant, which does not prevent its being made plaintiff." Sir, I make no comments on these expositions of federal court powers—they are too plain to require any.

The opinions and arguments from which these extracts have been read, were delivered in the year 1783. Who that heard them, Mr. Speaker, would have believed that, in less than five years, a suit would have been instituted in the Supreme Court of the United States, by an individual, against one of the States, and that the jurisdiction would have been maintained by the court? Yet, sir, this

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was done in several instances; and one of the States against which suit was thus brought, was Georgia! that State which seems doomed to be the subject of General Government experiments. And what course did Georgia pursue? Did she quietly submit to be "dragged before the court?" Did she, in the language of Mr. Madison, "condescend to be a party" to this suit? No, sir. She acted then as she has on a more recent occasion. She considered the summons "to the bar of the Federal (Supreme) Court" as an attack on her sovereignty; and she disregarded it, and resolved to protect herself against any judgment that might be rendered against her. And what was the consequence of her firmness on that occasion? Although, perhaps, censured and abused for a time, as usual, she very soon after had the satisfaction of seeing her principles recognised by her sister States, as was clearly indicated by an amendment to the constitution, expressly providing that "the judicial power of the United States should not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State."

But there is another branch of jurisdiction which is claimed for the Supreme Court, under the constitution, but more especially under the twenty-fifth section of the judiciary act, and which has been, very recently, absolutely denied by the public authorities of the State of Georgia. And that is, the right of the Supreme Court, under its appellate power, to review and determine on the judgment of a State court in a criminal prosecution, in which the State is a party. Sir, the view taken of this subject by Mr. Madison, in the celebrated Virginia report of '99, is so clear and conclusive, that I cannot deny myself the pleasure of reading it to the House: "The expression 'cases in law and equity' (in the constitution) is manifestly confined to cases of a civil nature; and would exclude cases of criminal jurisdiction: criminal cases in law and equity would be a language unknown to the law."

"The succeeding paragraph of the same section," continues the report, "is in harmony" with this construction. It is in these words: "In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases, (including cases in law and equity arising under the constitution,) the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as Congress shall make. This paragraph, by expressly giving an appellate jurisdiction in cases of law and equity arising under the constitution, to fact as well as to law, clearly excludes criminal cases, where the trial by jury is secured, because the fact in such cases is not a subject of appeal."

"Once more" (the report adds) "the amendment last added to the constitution deserves attention, as throwing light on this subject. The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign Power. As it will not be pretended that any criminal proceeding could take place against a State, the terms law or equity must be understood as appropriate to civil, in exclusion of criminal cases."

Such, sir, are the sentiments and reasoning of this great statesman on this point. What consideration they may be entitled to, is submitted to the judgment of the House. As, however, his opinions on other subjects are so much sought after of late, and so much admired, I trust they will not be without their weight of this.

But, Mr. Speaker, I have another authority, bearing so directly on this point, that it must not be passed over unnoticed—and to which the serious attention of the

gentlemen from New York is again most specially invited. I have already stated that when the convention of that State ratified the federal constitution, they proposed several amendments, which they urged should be adopted. They also prefixed to their assent to the ratification a declaration of certain rights and principles which they conceived were not affected by the constitution, and then added: "Under these impressions, and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the said constitution," &c. "We, the said delegates, do assent to and ratify the said constitution." Now, sir, one of these "explanations consistent with the constitution" is in these words: "That the judicial power of the United States, in cases in which a State may be a party, does not extend to criminal prosecutions, or to authorize any suit by any person against a State." Mr. Speaker, it is a well established principle of the common law, as well as the plain dictate of common sense, that a contract is to be construed as understood by the parties to it at the time it was made. The constitution is a contract between the different States of this Union. New York was a party, and a very important party, to this contract; and she resolved to leave no uncertainty as to her understanding of it, or of the obligations she was about to assume. Sir, it would really seem as if the members of that convention looked forward with a prophetic eye to the disposition of this Government to acquire, by the aid of construction, powers not delegated to it, and that they determined to plant round it as many guards as possible against these dangerous encroachments. And when, among the distinguished names of which that convention was composed, we find those of Jay, Clinton, Hamilton, Morris, Livingston, and many others, the construction which they placed on the constitution is entitled to the highest respect.

There is only one more clause of the constitution, with which I intend to trouble the House; it is that which extends the power of the Supreme Court to "controversies between a State and foreign States." Let us inquire of Mr. Madison what is the intent and extent of this jurisdiction: "The next case (says this gentleman in the Virginia convention) provides for disputes between a foreign State and one of our States, should such a case ever arise; and between a citizen, and a foreign citizen, or subject. I do not conceive that any controversy can ever be decided in these courts, between an American and a foreign State, without the consent of the parties. If they consent, provision is here made."

To this opinion, I beg leave to add that of Mr. John Marshall, on the same occasion. In reply to Mr. George Mason, Mr. Marshall says—"He (Mr. Mason) objects to its (the federal court's) jurisdiction in controversies between a State and a foreign State. Suppose, says he, in such a suit a foreign State is cast, will she be bound by the decision? If a foreign State brought a suit against the commonwealth of Virginia, would she not be barred from the claim, if the federal judiciary thought it unjust? The previous consent of the parties is necessary."

Thus we see these two gentlemen concurring in the opinion, that to enable the Supreme Court to exercise this jurisdiction, the consent of the parties, the States, is indispensable.

To show more clearly the absurdity of this doctrine, that a foreign State may bring one of these States into the Supreme Court, permit me, Mr. Speaker, to present a single case, as an illustration. There has recently been a dispute between the State of Maine and the province of New Brunswick. Instead, then, of settling it by negotiation between the two Governments, suppose Great Britain had brought an action in the Supreme Court against Maine, for the disputed territory. Sir, it would have been the standing jest of the day; it would have been too

ludicrous for grave judicial consideration. Yet, a people residing within the limits of the State of Georgia, who, some four or five years ago, declared themselves independent, have, as rumor informs us, instituted suit in the Supreme Court, as a foreign nation, against that State—and that, too, under the advice of distinguished counsel. That such a case will be sustained, I cannot believe. Georgia has not only given no consent to have the case adjudicated by the court, but she will not feel herself bound by any judgment that may be awarded.

Mr. Speaker, I have spoken of the powers of the Supreme Court, particularly as specified in the twenty-fifth section of the judiciary act, as being vast and alarming. I concur most sincerely with the opinion expressed by my worthy friend from Connecticut, [Mr. HUNTINGTON,] at the last session of Congress, that, "in comparison with the judiciary, all the other departments of this Government are weak and powerless." But, sir, when the gentleman added, that it controlled even sovereignty itself, by pointing it to the clause which says "thus far shalt thou go, and no farther," I confess I did not correctly understand the import of his language. Little, indeed, did I dream how soon we should have a demonstration of this omnipotence, and that my devoted State was, as usual, to be the subject.

Sir, I have already had occasion to speak of the repeated conflicts of the State of Georgia with this Government. She has, indeed, had her days of darkness and of trial—sometimes standing almost alone, and breasting the almost overwhelming torrent of public opinion. But she remained firm and unmoved; and when the storm has passed over, when the excitement has subsided, she has had the proud satisfaction to see her principles recognised, and to hear her course approved. She still acts upon the same principles—she still pursues the same straightforward course; and, in her present difficulties, she confidently anticipates the same result. She only carries into practical operation the doctrines so clearly laid down, and so ably maintained, by Madison and Marshall; these are the "burning and shining lights" which illuminate her path, and guide her course; and it is for an intelligent and impartial public to say whether, for thus acting, she should be placed under the ban, and devoted to destruction.

Mr. Speaker, it would be gross affectation if I were to speak of the distinguished individuals who adorn the bench of the Supreme Court in any other terms than those of the most profound respect. But the reverence which is so generally entertained for the characters of the judges excites some of the greatest apprehensions as to the dangers likely to grow out of the powers of the court. Sir, let us remember not only that these judges are fallible, but that they are not immortal. That splendid orb which has been so long the centre of this system—which in its meridian shone with such bright effulgence, and which preserves such mild and steady lustre in its evening hours, is fast verging to the horizon, and must soon set. Its distinguished secondaries, in the revolutions of years, must also finish their course—and who can foresee the character of their successors? With the same powers, and without the same purity of purpose to direct them, who can tell what mischiefs they may not commit? Against these dangers it is our duty to guard. We cannot too cautiously and securely provide against the exercise of arbitrary power. No policy is more unwise and unsafe, than that of confiding powers with reference to the individual by whom they are to be exercised—no matter how pure and elevated the character of that individual may be. Sir, it was for the purpose of providing against future danger, and with the hope of checking an evil which is constantly increasing, and which threatens the peace and harmony of our country—the interference of federal with State authorities—that the majority of the Judiciary committee were induced to recommend a repeal

of that section of our judiciary act which confers upon your Supreme Court such unlimited powers.

As to the resolution immediately under consideration, I have only to say, in conclusion, that, as the majority and minority of the committee differed so widely in their views of the question presented to them, it is both right and proper that the people at large should see the reasoning by which they have arrived at conclusions so entirely opposite. After the imputations which have been cast upon the majority, we consider it a matter of strict justice that their views should be published, and let an unprejudiced world determine whether we have indeed been plotting treason in the very bosom of our national councils.

#### REVOLUTIONARY PENSIONS.

The engrossed bill making further provision for the surviving officers and soldiers, militia, State troops, and volunteers, of the revolutionary service, was read a third time, and the question stated on its passage.

Mr. TREZVANT rose, and said he was aware of the great majority by which this bill had been ordered to be engrossed yesterday, and he knew he was presenting himself in an unenviable position by interposing any obstacles to its immediate passage; yet, contemplating the effects which it must produce upon the financial operations of the Government, he felt constrained, by a sense of duty, to throw himself, for a short time, upon the courtesy of the House. He said, that by the provisions of this bill, if it should become a law, we are about to place upon the roll of pensioners every individual, without regard to the character in which he might have served in the revolutionary war; no matter whether rich or poor, if his service was of six months' duration. Not content with the bountiful liberality already extended to the brave and gallant men who were engaged in most of the hard-fought battles in that eventful war, which terminated in establishing our independence, we are now called upon to adopt a measure that will embrace within the scope of its bounty all who survive, and which must necessarily increase the number of pensioners to an unknown extent, and create demands upon the treasury, that will absorb a large proportion of your current revenue. Is the list of pensioners not sufficiently swelled under the existing laws, that we must dispense with the prudent limitations imposed upon the bounty of the Government, and invite multitudes who are not claiming it as a right, or even asking it as a favor, to partake of a liberality almost without bounds, and certainly unprecedented?

At present, Mr. Speaker, a pension cannot be obtained unless the applicant is in necessitous circumstances; and he is held to strict proof of the time of service, which must be, at the least, nine months; and required to furnish, under oath, a schedule of his property. Notwithstanding these wise and salutary restrictions, intended to confine the benefits of your pension system to those who really stand in need of the assistance of their country, and to guard your treasury against frauds—not less than between eleven and twelve thousand are at this time in the enjoyment of your bounty, requiring, I think, an annual expenditure of between twelve and fifteen hundred thousand dollars. From this data a probable conjecture might be formed as to the effects of this bill, should it pass, in increasing the number of pensioners, and the annual expenditure to be made for the payment of their pensions.

Mr. T. said that he did not know what was the number of soldiers engaged in the revolutionary war. The number, however, must have been very great, if the militia, as well as those in the continental line, are included in the estimate. The war was waged for seven years, and was actively prosecuted from one extremity of the Union to the other. No part of the seaboard escaped its rava-



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ges, and the militia, in aid of the regular forces, were frequently called out in all the States, and but few performed a service for a shorter period than six months. It cannot be doubted that there are many thousands, scattered over all parts of the United States, who will be entitled to the benefits contemplated by this bill, and will avail themselves of its provisions. It is impossible to speak with absolute accuracy upon this subject, but the number of pensioners now on the roll furnishes a rule that will enable us to approximate sufficiently near the truth to induce gentlemen to hesitate before they proceed further in this ruinous policy.

At present it should be remembered, that, with the exception of those who were provided for in the act of 1828-29, none but the indigent, who have served continuously nine months in the continental line, are entitled to the benefits of the pension acts. The possession of more than three hundred dollars worth of property excludes the soldier from this bounty. With these restrictions, it has been stated that the number at present upon the pension list amounts to between eleven and twelve thousand. It cannot be reasonably supposed that one-third of the survivors of that band of patriots, who knew so well how to estimate the value of liberty, and encountered such fearful perils to secure its possession to themselves and their prosperity, have been so regardless of their comfort and independence as, after a lapse of fifty years, uninterruptedly devoted to the improvement of their fortunes, to be found at this day in the possession of less than three hundred dollars worth of property. Admit, however, that one-third of these men, either by misfortune or improvidence, have been reduced to this condition. Remove the restrictions at present imposed, and from the ranks of the continental line alone you will have a list of pensioners amounting to between thirty and thirty-six thousand. The relative proportion of militia and continental troops cannot be ascertained with precision; but the history of those times, and the recollection of those who witnessed the scenes of that period, and yet live, will bear me out in saying that the militia engaged in the revolutionary struggle, at different times from its commencement to its termination, greatly exceeded the number of regular or continental troops. If they were only equal in number, it is clearly shown that, by the passage of this bill, you will increase the list of pensioners from between eleven and twelve thousand, to between sixty and eighty thousand. With this view of the facts, an opinion may be hazarded, that, to maintain your pensioners, the sum required annually, instead of being, as at present, between twelve and fifteen hundred thousand dollars, will between six and ten millions of dollars. Admit, Mr. Speaker, that the smallest of the last mentioned sums will be required annually to meet the expenditures to be incurred by the adoption of this measure, where is it to come from? Your treasury may be in a healthful state. It is no doubt prepared to meet expected and ordinary demands, but it is not so redundant as to be able to meet one so unexpected, and of such an extraordinary character. Mr. Speaker, we have yet a heavy and a long standing debt hanging over us, which sound policy requires should be paid before this system of waste and extravagance should be indulged in. We should be just before we are generous. If this bill should become a law, how will this debt be discharged? It is evident that the sum which will be annually required to carry it into effect cannot be supplied from the current revenue, unless other appropriations necessary to the ordinary current expenses of the Government should be dispensed with, or you invade the sinking fund, long since established, and sacredly pledged to the payment of the interest and principal of the public debt. If you do not impose additional taxes or borrow money, this must be done; and, as a necessary consequence, the payment of the public debt will be postponed. We have been told by the Ex-

ecutive that the revenue of the Government was equal to the payment of this debt as early as the year 1834, or 1835 at furthest. The people have been told so for the last two or three years, and they are most anxiously looking forward to this desirable period. They expect, then, to be relieved from that weight of taxes by which they have been so grievously oppressed, especially since the year 1828. In this country, as in all others, the people look to the degree of taxation they are exposed to, as one of the best evidences of the wisdom or folly, the goodness or badness, of the Government under which they live, and of those who administer its affairs. When their industry is least trammelled by unnecessary burdens, and they are left free to enjoy the fruits of their labor with the least possible interference on the part of the Government, they are not often inclined to complain of the acts of the Government; but under a state of taxation which is felt to be oppressive, and promises to be perpetual, they will complain, and their complaints must ultimately be respected. With a view to avert the evils he apprehended would flow from the bill if it passed in its present form, Mr. T. submitted the following motion:

“That the said bill be recommitted to the Committee of Ways and Means, with instructions to inquire and report to the House the amount which will probably be required annually to carry its provisions into effect, and the amount which probably would be annually required to carry the said bill into effect, provided its provisions were restricted to those only who are in such reduced circumstances in life as to stand in need of assistance of the country for support; and further to inquire and report whether the amount which may be required to carry the provisions of the said bill into effect can be drawn from the treasury without invading the sinking fund, and thereby postponing the payment of the public debt.”

Heretofore, said Mr. T., the policy of this Government had been to confine the benefits of the pension law to those who had been disabled in the military and naval service of the country, and to those who had served in the revolutionary war, and were reduced to a state of indigence and want. Now, it is proposed to go beyond this policy, and to lay the foundation of a splendid pension system. All who participated in the war of the revolution, no matter what their merits may be, are invited to come forward and throw themselves upon the charity and beneficence of the Government—a sumptuous banquet is to be spread, and the country is to be ransacked to gather together multitudes to riot and revel at the feast. It is not in human nature to resist an invitation so strongly appealing to its cupidity and avarice. All who remain, of the regular army or militia of the war of the revolution, will be quartered upon your treasury.

Mr. T. said that he knew that much had been said, in and out of the House, of the meritorious services of the revolutionary patriots, and of the debt of gratitude which the country owed them. No one was more ready than he was to award to them that meed of praise to which they were so richly entitled; and he entertained so exalted an opinion of the patriotism by which he trusted they were still animated, that he believed he should go as far as any of them desired, if he contributed in his station here to extend relief to such of them as really stood in need of assistance from their country. If, however, he should be mistaken in this opinion, as his justification, he would say, that it was a bad rule in legislation to surrender the dictates of the judgment, and follow the impulse of the feelings. Whenever it was done, the consequences invariably proved to be injurious to the people. Mr. T. said he had no inducement, nor did he feel any desire, to derogate from the well-earned fame of the men who fought and suffered to establish our independence, nor would he throw any obstacles in the way of any measure calculated and intended to afford the comforts necessary to their real

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wants; but he could not consent to give away millions to those who did not stand in need of it. The idea of men who were rolling in affluence and indulging in all the luxuries of civilized life being sustained and supported at the public expense, in a country and under a Government where we boast of equal rights, was to him odious in the extreme, and would be so considered by the people. He must beseech gentlemen again to weigh well the consequences of this measure. Sixty thousand pensioners to be maintained from your treasury by the annual expenditure of an amount that must arrest for some time the payment of the public debt, and fasten upon the people, for an indefinite period, a system of taxation under which, even now, they are justly restless and dissatisfied, must present a consideration that the prudent and discreet would not cast aside.

Mr. T. said that he had designedly confined the remarks which he had made upon this subject to those points to which, in support of his motion, he had felt it his duty chiefly to call the attention of the House; but, before he took leave of the subject, he would say that he felt opposed to the pensioning system, upon other grounds. He believed it was better calculated to demoralize the community than almost any other kind of legislation. It weakens those ties which, in all well regulated communities, should be sedulously cherished as the strongest ligaments which bind man to the performance of his social duties. The aged parent, who has a moral right to lean upon his offspring for support in the decline of life, will be told that that obligation no longer exists, as the Government has undertaken to provide for him. The brother will be denied the hospitality of a brother's roof, or a place at his board, and turned out of doors to live upon the charity of Government. Those affections, which constituted the chief enjoyment of life, will be put to hazard by the introduction of such an extended system of governmental charity. Mr. T. said that he regretted he had occupied so much time in presenting his views upon this subject to the House, especially as he was satisfied his efforts would be unsuccessful; yet he should have the consolation to know that he had attempted to discharge his duty to his constituents and to the country, and at the same time that he had obeyed the dictates of his own conscience in submitting what he had said.

Mr. TUCKER, of South Carolina, said he was in favor of doing something for the State troops, volunteers, and militia. These men had rendered services as important, had endured hardships as great, and suffered privations as distressing, as the regular soldiers. The time was, during the revolution, that every thing depended upon them; they were subject to daily alarms, and daily calls to resist the devastating progress of the enemy—they met these calls with alacrity, and a patriotism inferior to none—exposed their lives and shed their blood in defence of their country's freedom; and were they now to be forgotten? Was Congress to legislate for the benefit of the regular soldier only? Those in the regular service stipulated to serve for a sum certain, and most of them had been paid agreeably to the contract.

It would be recollected, he said, that most of those in the South, who took an active part in achieving the liberties of the country, belonged to the militia; but it made no difference with him to what section of country that class of soldiers belonged. They had rendered essential services: without them the war could not have been successfully carried on, and, but for their patriotic exertions, we might have been at this day groaning under the yoke of a foreign despot. They had never received their pay in any thing but a depreciated paper currency of nominal value. But few of them now remain, and a large portion of these were borne down by age and infirmities, and lingering out a miserable existence under the blighting influence of a cheerless poverty. Should these men now

be told, in the evening of their days, that they were less patriotic, that their services were less valuable, and they less deserving, than the regular soldiers? Such an invidious distinction was unfeeling and cruel. Mr. T. said, we owe them a debt: we are their debtors, and they our creditors. Justice demands that we should pay them. By our acts of legislation, we had made provision for a class of officers and soldiers, to which class belong many who are in easy circumstances. [He alluded to the act of 1828, which provided for all those who enlisted for and served during the war, without reference to their pecuniary situation.] He could see no ground for distinction, nor could he discover any good reason for paying that class in preference to the militia. The distinction, he said, was odious and unjust. It evinced a partiality on the part of the Government, not warranted by the circumstances of the case. He had never been the friend of the pensioning system; but as it had been adopted, and would be kept up by the Government, he insisted that even-handed justice should be awarded to all. Would any gentleman say to him that such men as the immortal Sumpter and Marion, with their devoted compatriots, were less worthy or less deserving than those attached to the regular service? South Carolina held them in the most grateful remembrance. Their venerated names shed a lustre of glory upon that State, and their patriotic devotion adorned the pages of American history. Shall we, said he, suffer the brave followers of these brave men to pine in want and die in poverty, while we are awarding our bounty to those who are not more deserving? Justice was all that he desired; and, in giving his vote for paying the militia, he considered that he should act in strict conformity to her requirements. He had named Sumpter and Marion—he might add, Butler, Williams, Pickens, Hill, and a host of others, who rendered services unequalled in the history of the revolution. Could any American read the record of their patriotic deeds, and lay his hand upon his heart, and say, they were less deserving than those for whom provision has been made? He repeated that it was not only a debt of gratitude which we owed to these men; but we were under a pecuniary obligation to them, which had never been discharged. As the representative of honest constituents, willing to discharge their honest debts, he should venture to give his assent to paying these men.

It is but a few days, said Mr. T., since we voted a large amount as a donation to a distinguished individual of this country. He alluded to Mr. Monroe, late President of the United States. Why was that sum voted to him? Because his fame had been shed abroad, and the splendor of the gift was to make a flourish in the world. Will this Government be generous and refuse to be just? Shall the poor militia man be denied his honest due, and kept from his scanty pittance, while we lavish our thousands and tens of thousands upon those who have no legal claim upon us? Let the American people avoid the reproach which such a course of legislation would bring upon them. Justice was equally due to the high, the low, the rich, and the poor; and so long as he had a tongue to utter a sentence, he would advocate this principle.

Mr. T. said, you have expended money enough in your unconstitutional works of internal improvement—in the construction of your big and little roads, your canals, and your surveys, to have paid those poor men what was their due. In your anxiety to prosecute a splendid national scheme, and to dazzle the world with the glory of a great American system, you have forgotten the debts you owed, and the sufferings of those to whom they were due. Pursue this policy a little longer—lavish your money upon some who are not entitled to it—withhold it from others to whom it is due, and squander your treasure according to the policy of your misnamed American system, and your liberties are gone forever.

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Mr. CARSON was against the bill, as at present advised, (having been detained from the House by indisposition yesterday, during the discussion,) and was in favor of the commitment, to ascertain, as near as practicable, what it would cost.

Mr. RICHARDSON said the session now drew very near to its close; there were many subjects of great importance yet to be acted on; and as, after the full discussion and the decisive vote of yesterday, further debate could answer no purpose, he felt it a duty to the House and the country to move the previous question; but he withdrew the motion at the request of

Mr. VERPLANCK, on a promise that Mr. V. would renew it when he had made an explanation in reply to some of the statements of Mr. TREZANT, which Mr. V. proceeded to do, giving it as his opinion, from the best data in possession of the committee, which he stated in detail, that the bill would require an additional expenditure of not more than from 800,000 to \$1,000,000, and this rapidly decreasing, and soon, in the course of nature, to be entirely discontinued. He concluded, according to promise, with moving the previous question.

The motion was sustained; and the question being put on the passage of the bill, it was decided in the affirmative—yeas 132, nays 52.

So the bill was passed, and sent to the Senate for concurrence.

#### APPROPRIATION BILLS.

The House then went into Committee of the Whole on the several remaining appropriation bills.

The committee spent three hours in discussing various amendments to these bills, as they successively came under consideration, and on motions to fill blanks with particular sums, or to reduce appropriations. The following were the chief questions decided:

To the navy appropriation bill, Mr. DRAYTON moved an amendment to restore the pay and emoluments of the officers of the marine corps to what they had been prior to 1829, when they were reduced by the construction of the Fourth Auditor; and, after some opposition by Mr. WICKLIFFE, and remarks by Messrs. DRAYTON and McDUFFIE in its favor, the amendment was adopted.

In the military appropriation bill, Mr. DRAYTON moved to increase the appropriation for fortifications from 100,000 to \$200,000. The motion was very strenuously opposed by Mr. YANCEY, and was negatived.

Mr. McDUFFIE made an unsuccessful motion to appropriate \$2,000 for the purchase of medals to be distributed to Indian chiefs; and

Mr. BATES made an unsuccessful motion to insert an amendment directing that the Indian annuities be hereafter paid in the manner which had been pursued previously to the last year—the yeas being 53, nays 61.

Mr. VERPLANCK moved to insert an appropriation in the harbor bill (conformable to an existing law) of \$50,000, for improving the navigation of the Ohio and Mississippi; and the motion was agreed to.

Mr. WICKLIFFE moved an amendment to appropriate an additional sum of \$150,000, to be expended, under the direction of the present superintendent, in the improvement of the navigation of the Ohio river, from its mouth to Pittsburg, in removing the obstructions in the channels at the shoal places and ripples, and by the erection of wing dams, or such other means as, in the opinion of said superintendent, will best answer the purpose of deepening the channels of said river.

Some debate arose, in which Mr. CARSON opposed the appropriation. Messrs. WILDE and McDUFFIE objected to inserting it in the present bill, which was intended only to appropriate for objects already authorized by law; and Mr. WICKLIFFE defended it.

Mr. VENTON said that he would not, at that late hour,

give his reasons at large upon the proposed amendment, but he would state, in a few words, the ground upon which he thought it ought to be adopted. The improvement of the navigation of the Ohio river was, in truth, nothing more than an extension of the canals of Ohio and Pennsylvania. These two States were incurring an expense of ten or fifteen millions of dollars; the one in opening a canal from Philadelphia to Pittsburg, and the other between Lake Erie and the Ohio river; thus opening a continued communication from Philadelphia to New Orleans by the Pennsylvania canal, and from New York to New Orleans through the Erie and Ohio canal. Owing to certain shoals in the Ohio river, its navigation was almost wholly suspended for about two months every autumn; and that, too, at the very best season of the year for business on these canals. The loss of business on this account must be very great. It is of little consequence that the Ohio canal enters the Ohio river, unless the produce of the interior can descend to New Orleans, or other place of destination. So of the Pennsylvania canal; it is in vain for that State to think of participating to any considerable extent in the trade of the Western country at that season of the year, unless the navigation of the Ohio is opened to Pittsburg, so that produce may ascend and merchandise descend the river, on their way to and from Philadelphia. The making of these canals, which will now be finished in a year or two, renders it of vast importance to keep the navigation of that river always open while business can be done upon them. We have a report lying upon the table, showing that the shoals in the river can be deepened at a very moderate expense. The improvement of its navigation properly belongs to the General Government. And he hoped, considering the vast expense the States of Pennsylvania and Ohio were incurring in opening avenues of trade to the Ohio, that the comparatively small sum of \$150,000 would not be denied in aid of their great efforts.

Mr. DENNY said, as I come from the borders of the Ohio, I may be permitted to say a word or two on this subject. It is one of great importance to the Western country. The Ohio river may with great propriety be considered a great national highway; it forms the boundary between several of the States; it is the great channel of their commerce, and, to some portions, the only outlet for their trade; and, in my opinion, is as deserving of the attention of the Government as any portion of the seaboard. Much has been done to facilitate our commercial intercourse along the Atlantic; large sums of money have been expended for improvements in the bays, clearing the harbors, opening channels, and removing obstructions to navigation, along our extensive seacoast, wherever the tide flows, from north to south. But, sir, it seems to me that some gentlemen are seized with a kind of hydrophobia so soon as we leave the salt and propose improvements in the fresh water region. I am willing with them to vote millions for the improvement and protection of our harbors and seaports, because it is for the benefit of the commerce of our country. The whole Union is benefited by such expenditures, because the whole Union has an interest in the commerce of every port; and certainly to facilitate our internal commercial communication, particularly among the great and flourishing Western States, is equally worthy our attention, in a national point of view. I can perceive no difference between this commerce and our coasting trade, which enjoys so largely the favorable consideration of the Government.

To the Western States, the Ohio is the most important channel of their intercourse; and it is true, as remarked by the gentleman from North Carolina, [Mr. CARSON,] they will be immediately benefited by the proposed appropriation. But, sir, the advantages to be derived from the improvements under this appropriation will not be felt exclusively in those States; the whole nation will ex-

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*Inland Ports of Entry.—Appropriation Bills.*

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perience the beneficial effects in the additional facilities afforded to commerce; and this is the great basis upon which the advocates of internal improvement rest their cause. Clearing away the obstructions from the harbor of one of our towns on the seacoast, is for the immediate benefit of the town; it gives security to the trade, and promotes its prosperity, and the commerce is increased and protected; the work is not, therefore, to be considered merely a local matter. No, sir, commerce is a national object; we all participate in its benefits, and have an interest in its prosperity.

It is well known that, at this late period of the session, with a mass of business before us, it would be impossible to pass a bill through this House in the usual mode. I cannot perceive any weight in the objections made to this proposition; it violates no rule of this House. What principle of legislation does it outrage? None, sir. I trust, therefore, that the amendment will be adopted.

Mr. DODDRIDGE also made a few remarks in favor of the amendment; after which,

The question was taken, and the amendment was agreed to—yeas 79.

On motion of Mr. LETCHER, an appropriation was inserted of \$15,000 for making a road in Arkansas.

After an ineffectual attempt by Mr. DODDRIDGE to get up the Cumberland road bill, (it being near 4 o'clock,)

The committee rose, reported the amendments, and The House adjourned.

FRIDAY, FEBRUARY 18.

## INLAND PORTS OF ENTRY.

Mr. CAMBRELENG, from the Committee on Commerce, reported a bill allowing the duties on foreign merchandise imported into Pittsburg, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places; which was twice read, and Mr. C. moved that it be ordered to a third reading.

Mr. McDUFFIE opposed the motion, because it was a subject which belonged to the revenue, and ought to have been before the Committee of Ways and Means. It, moreover, was a novel principle—one involving a great expenditure, in the number of custom-house officers which would have to be appointed; and if the principle were adopted, every large town in the Union situated on a river would be entitled to the same privilege. He moved the reference of the bill to the Committee of Ways and Means.

Mr. WICKLIFFE and Mr. PETTIS defended the bill against the objections urged, and argued to show its necessity to the convenience of the large and thriving commercial places comprised in the bill. Before the question was taken, the hour elapsed.

## APPROPRIATION BILLS.

The several appropriation bills, which yesterday passed through the Committee of the Whole, were taken up, and the several amendments agreed to by the House.

Mr. DRAYTON renewed his amendment, proposed yesterday in Committee of the Whole, for the appropriation of two hundred thousand dollars, instead of one hundred thousand dollars, for the armaments of fortifications. He supported his proposition at length, referring, in the course of his argument, to the defenceless condition of many of the fortifications on the seacoast. Should the vast continent of Europe, he remarked, be involved in the flame of war which at present there were too many reasons for apprehending, the United States might, and in all probability would, be drawn into the vortex. Should a contest ensue, (and, considering the combustion which at present prevailed amongst the great Powers of the old world, who would say that it was not daily expected?) would not the consequences be of so tremendous a nature, as to require the utmost caution on our part to avoid being

involved in it, in the first instance; and, in the next place, if we should unfortunately become entangled in the complex web of European politics, to be prepared with the necessary means of extricating ourselves from the entanglement? Surely so; and the only means of enabling us to do so, in the event of such a disastrous occurrence, would be to prepare for war in time of peace; at least so far as to provide for the arming of those fortifications upon which alone the nation could rely for the security of its seaboard. The defence of the coast of the country was, it would be admitted by all, necessary for the preservation of public liberty; and how could the coast be defended, without the fortifications being put in an efficient state?

Mr. D. referred next to the expression of Mr. Canning, in the British Parliament, as to the probable results of the next war in Europe. That able statesman, that eloquent orator, that accomplished man, said, a few years ago, that the war which might next occur would probably be a war of opinion—a war of liberal principles against despotic Governments—in the contest of which, the victors would be, in the end, the vanquished. The clouds which lowered at present over Europe threatened to involve all civilized countries in the storm which it was apparent was gathering. No portion of it could be exempt; and how, then, could the United States keep aloof in such a contest? Great Britain owed its existence to its naval strength; it had declared that its power depended on its maritime supremacy; and how, asked Mr. D., could that supremacy be sustained, should a war ensue, but by the renewed exercise on her part of the system of impressment?

After some further remarks on this subject, as connected with the rejection of a former treaty by President Jefferson, on account of its not containing a provision against the impressment of American seamen, and some observations on the inadequacy of the present means of national defence in the fortifications on the seaboard, Mr. D. concluded.

Mr. McDUFFIE trusted that, if a war should unhappily occur in Europe, this country would adopt the system which was called in England that of non-interference. God forbid, said he, that the settled policy of the United States should be so entirely changed, as to lead to the entanglement of this nation with the politics of the other hemisphere! Let us finish the fortifications which we have begun to construct. This is all that the bill provides, no more; and, let me ask, of what use are the shells of these buildings, erected at a great expense for the purposes of national defence, unless they are finished and properly armed?

Mr. HOFFMAN opposed the amendment, conceiving the navy perfectly competent for the purposes of defending the coast. The power and strength of our navy were, it would be borne in mind, very different from their condition ten or fifteen years ago; and besides, he, for his own part, if he might be permitted to express an opinion, saw no prospect that we should be engaged in a war with Great Britain.

Mr. YANCEY, of Kentucky, said he had not expected, after the vote of yesterday rejecting the appropriation of an additional hundred thousand dollars for fortifications on the seaboard, that there would have been a proposition to-day to reinstate the item in the bill, and he regretted that it was made. I, said he, am a plain farmer, and represent constituents, a majority of whom are farmers, and, of course, make their living in that highly laudable mode, by the sweat of their brow; and when I address them, and am amongst them, I advocate frugality and economy in the public expenditure, in order that labor may be lightly burdened. Although I have to encounter eloquent lawyers here, sir, yet I do and will fearlessly advocate the same principles, and make every practicable exertion that the bread which labor has earned shall not be taken from

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its mouth to support exorbitant and extravagant appropriations. Sir, the poor laboring men, who are, in fact, the very main pillars of society, ought not to be burdened with these exorbitant appropriations; and little do they think, when they are bedewing the earth with the sweat of their brow, and when night comes, and they go to bed, they are so fatigued with their daily labor to support their families that they frequently cannot sleep—I say, sir, little do they think that such profuse and lavish appropriations of money are made, as frequently are; and I should consider myself unworthy of their confidence, if I did not boldly and fearlessly exert my best faculties here to keep off the oppressive hand of taxation from them and their families. They are that to society that a main spring is to a gun lock; and I am resolved to let them see that I am not less their advocate here than at home. Sir, I will look to the influence, the salutary maxims, policy, and advice of the illustrious Jefferson, who was in favor of the sacred preservation of the public faith, and the honest performance of our duties, of frugality and economy in our public expenditure. Sir, I most cordially unite with that great and patriotic sage, and hope that we shall be frugal and economical in our public expenditures, and not imitate the magnificent pomp, splendor, and profusion of Eastern monarchs and potentates; but that we shall zealously and ardently endeavor to realize our professions, and bring the ship of State back to its republican and Jeffersonian principles; that we shall thoroughly cleanse the Augean stable, and get back to the good old whig principles of '76, and the promotion of the equal interest and inalienable rights of man. And, sir, I regret to see some of those gentlemen, who are such strong advocates of this appropriation, opposing an appropriation of one hundred and fifty thousand dollars for clearing out obstructions and otherwise improving the navigation of the Mississippi and Ohio rivers—those two great streams which traverse such a vast extent of country in the great valley of the Mississippi, and on which the surplus produce of one of the greatest countries on earth is wafted to New Orleans, the grand emporium of the West.

Sir, I most cheerfully unite with the honorable and patriotic gentleman of South Carolina, in every proper defence of the country, and would meet at the beach the enemy that should dare to pollute our republican soil with his tyrannical and unhallowed feet. I would dispute every inch of ground, burn every blade of grass, and expire in the last ditch, before I would see the foot of an invader trampling in triumph upon my native land. Yes, if he did enter my country as a foe, I hope it is not a useless vaunt to say that it should be over my lifeless corpse. Let us, I say, teach our sons—let us urge upon our friends and fellow-citizens, the brave boys of the mountains, and of every other section of our beloved country, to exert their patriotism, and bravely defend the land in which they live. In that case—I mean in the event of our being attacked—we can, I doubt not, successfully resist the combined attacks of a world of despots. If we are frugal, virtuous, and united as with the bonds of indissoluble union, as I trust we are, and ever shall be, and put our faith in the great omnipotent God of battles, we may expect to be free and happy, and to transmit to our latest posterity, pure and uncontaminated, the equal and inherent rights of freemen, with which we are so eminently blessed. And if we do, sir, act and unite on these principles of virtue, economy, and frugality, and trust in the great sovereign Arbiter of the universe, we shall stand as a pillar of fire amidst a world of benighted despotism, lighting the path of unborn millions to the temple of liberty.

Mr. WILDE argued that, however the country might be indifferent to the contests of Europe, however indisposed the Government might be to engage in those contests, yet, from the very nature of things, it was impossi-

ble to avoid an involvement in them. He said, after some further remarks, that he was therefore in favor of the proposition, conceiving it to be absolutely necessary for the defence of the seacoast, and the security of our military and naval forces.

The amendment was lost by yeas and nays—yeas 69, nays 90.

#### INDIAN MEDALS.

Mr. McDUFFIE moved to insert an appropriation of \$3,000 for the purchase of medals, to be distributed amongst Indian chiefs.

Mr. VANCE said the object was a proper one, as it was well known that such presents to the Indians were very useful, and had been always customary. He could not forbear, however, reminding those gentlemen who now saw the expediency of the measure so clearly, that an expenditure under the late administration of one-third of the sum now proposed, filled about a page of the famous report of the Committee on Retrenchment, in setting forth its enormity.

The appropriation was agreed to; yeas 85, nays not counted.

#### INTERNAL IMPROVEMENTS.

The bill making appropriations for improving the navigation of rivers, removing obstructions from the mouths of rivers and harbors, &c. next coming up,

Mr. LEA wished to know the sense of the House on this measure. He wished to know what was meant by this sort of external internal improvement. He wished to know how high up a river it was considered constitutional to go without coming in conflict with the objectionable principle, and how far the House could carry a distinction which he himself could not see or approve. He could see no difference between appropriations for harbors and the mouths of rivers, and appropriations for the improvement of the interior of the country. He therefore asked for the yeas and nays on the engrossment of this bill.

Mr. CARSON said he felt that on the subject of internal improvement it was perfectly useless to say a word. The bill proposed various objects of expenditure for harbors, &c. What evidence was there of their necessity—not to speak of their constitutionality, that he would not mention; it is scoffed at; we have no constitution—it is dead and gone. But he knew of no evidence that the improvements were needed, admitting their legality. He went through all the items, to show that many of them were unworthy of legislation, and some of them contemptible. He protested against them, and said that the items for his own State should not seduce him to vote for the bill. Nothing, however, which he could say, he was aware, would have any influence on the House; he therefore called on his friend from Kentucky, [Mr. YANCEY,] to make a speech against it.

Messrs. IRVIN and WHITTLESEY defended the appropriation in reference to the waters of Lake Erie, showing their importance to the commerce of the West, the great extent of the commerce of the lake, the deficiency of natural harbors on it, and the necessity of forming them, &c.

Mr. SILL, of Pennsylvania, said, the principal objections he had heard against the passage of this bill, appeared to be directed against the appropriations for improving the navigation and opening the harbors on the lakes. I, said Mr. S., have had an opportunity of witnessing the improvements already made in that navigation, by means of former appropriations, and can truly state, not only as my own opinion, but that of others, who have examined them, that no part of the public money has been more judiciously and beneficially expended.

These appropriations are objected to because, as it is said, the objects to which they are to be applied are not



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of a national character, and, therefore, that the National Government cannot, with propriety, appropriate money for their improvement. Some particular object of improvement is selected and adverted to, for instance, the removal of a sand bar from the mouth of a certain creek or river, which falls into Lake Erie, with a view to the improvement or construction of a harbor upon the shore of that lake; and it is said that such improvement cannot be of general or national importance, because such stream or river is, of itself, so obscure and unimportant, that even its name has scarcely before been heard of. Gentlemen seem to consider that the character of an improvement of this kind depends on that of the particular spot where it is contemplated to be made, without taking into view the importance of the general object which each particular improvement is calculated to advance.

It appears to me that this view of the subject is not a correct one. In estimating the character and importance of any work of public improvement, we should consider the general design and object intended to be effected, and not confine our views to the particular objects of an appropriation, which is frequently only the means of effecting some great national improvement, or a part of some plan of general and public utility. The removal of a sand bar at the mouth of a river, or the shore of Lake Erie, considered solely with reference to the importance of the particular place where such improvement is to be effected, may appear to be a local and unimportant object; but when it is considered as a means of opening or forming a harbor, whose benefits are extended to the thousands of our fellow-citizens whose lives and property are exposed on those waters, its general and national character at once become apparent.

No one doubts that the Atlantic seaboard is an object of general and national importance. The propriety of affording all reasonable facilities to its commerce and navigation, by the improvement of harbors, the removal of sand bars, and the erection of beacons, buoys, and light-houses, I believe, is not disputed. Now, I would ask, why is an improvement of this kind, when made along the seaboard, considered to be of national character and importance? It is not on account of the local importance of the particular point where such an improvement may be made, but because it is connected with, and constitutes a part of, that great national object, the facility and security of the commerce and navigation of the Atlantic coast. It is true that both those objects, that is, those of general utility and local importance, may happen to be combined in the same rule. An improvement of the harbor of a great commercial city, for instance, that of New York, would present a case of this kind. But suppose an extent of barren and desert coast, without inhabitants, and destitute of any objects to attract attention, except the dangers and shipwrecks which awaited those who sailed along or approached its shores, might not the national interests require some improvements to be made, even in such a spot as this? And if the removal of a sand bar would afford an improvement materially promoting the security of our commerce, would it not be proper for this Government to effect it? Such an object would be strictly national; not by reason of any importance in itself, but by its connexion with that great national object, the security and facility of navigation and commerce, it partakes of that character, and becomes itself an object of national concern.

The same principles apply to the improvements on our great Northwestern lakes. No one, I presume, will profess to doubt that the commerce and navigation of the great chain of lakes, extending along our Northwestern borders, and forming a connected navigation of more than one thousand miles, is, of itself, an object of great national importance. They may be called, with much propriety, the Mediterranean of America. Those inland

seas afford a great highway for the commerce and navigation of a very important portion of the people of these United States. The citizens of the northwestern parts of New York and Pennsylvania, probably one-half of the State of Ohio, the whole territory of Michigan, the northern parts of Indiana and Illinois, to say nothing of the almost illimitable regions bordering on the upper lakes, and extending far towards the Mississippi, are dependent on the navigation of these waters for the transportation of their produce to a market, the importation of all their supplies of foreign merchandisc, and, in short, for all their commercial intercourse and transactions. Nor are the benefits of this inland navigation confined to those who inhabit the interior of our country. The intercourse thus opened is equally beneficial to the commercial and manufacturing interests of the Atlantic States.

The commerce of Lake Erie is rapidly increasing, and already of great importance and amount. Previous to the late war, its commerce was of small amount. Probably eight or ten small vessels were sufficient for all the transportation that was then required. During the war, that commerce was entirely broken up and destroyed. Some of the vessels were captured by the enemy, the remainder were purchased by our Government, and fitted for the purposes of naval warfare. But with the return of peace, the settlement and improvement of that country rapidly advanced, and with it the trade and commerce of the lakes. The completion of the New York canal constituted a new era in the trade of that country. It gave to those lakes the character and advantages of an inland sea, with a navigable outlet to the main ocean, and afforded the means of transportation to the seaboard, for the agricultural products of the vast and fertile regions bordering on and communicating with their waters. There are now nine steamboats, and seventy or eighty vessels, which during seven or eight months of the year are employed in an active commerce on Lake Erie. The number of entries at the custom-house at Buffalo, up to the 30th of September of the past season, was six hundred and thirty-seven. Should we add to this the probable number of entries during the remainder of the season, the aggregate number for the whole season would probably exceed eight hundred. The number of arrivals and departures at and from the port of Presque Isle, during the same period, was three hundred and sixty-six; the probable number during the remainder of the season would probably increase the total amount to upwards of five hundred. The quantity of merchandise transported to Buffalo on the New York canal, up to the 30th of September of the past year, and shipped on the lake from that port, amounted to fifteen thousand tons. The two remaining months of navigation are the most busy season of trade; and, should we include the probable quantity shipped during that period, it is believed that the total amount would not be less than twenty-five thousand tons.

It should be borne in mind that the whole of this vast amount consists of merchandise the produce and manufacture of our own and foreign countries, for the supply of the northwestern sections of the United States. A great proportion of the country between the lakes and the Ohio, including sections of five States, and the whole of the Territory of Michigan, receive their supplies by this route.

In the last annual message of the President, the propriety of making appropriations for increasing the facility, and promoting the security of commerce, is admitted. Our revenue, it is stated, arises principally from the collection of duties imposed on foreign merchandise. These duties increase the price of the article, and are ultimately drawn from the pockets of the consumer. Appropriations for the improvement of our commercial intercourse are paid out of the same fund. These improvements, by facilitating the means of transportation, cheapen its price, and

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thus effect a reduction in the price of the article. The burden and the benefit of these operations are, therefore, reciprocal; and it is but reasonable that a part of the money thus received should be expended for the benefit of those from whom it is collected.

Do not the same arguments apply with equal force to the interior, as well as to the foreign commerce of our country? The duties imposed on foreign merchandise are paid by the consumer, who resides in the most interior and remote part of the country, as well as by the inhabitant of the Atlantic seaboard. Has he not a right to expect that some part of that money will be expended for his benefit, as well as for the accommodation of those who inhabit the seacoast?

I have not ascertained the exact amount of the export trade of Lake Erie during the past year. I have seen a partial statement of its amount, which proves it to be of great extent; and should it be estimated at fifteen thousand tons, which is probably below the actual amount, it would swell the aggregate annual amount of that trade to forty thousand tons.

I might add that this amount has greatly increased during the past year, in consequence of the partial completion of the Ohio canal. And when that great work, opening an avenue through the whole of that great State, and forming a communication between the lakes and the Ohio, shall be completed; when the vast and fertile regions on the shores of these lakes shall be converted from a wilderness into fruitful fields, who can estimate the vast amount of produce which shall be floated towards a market on the waters of Lake Erie?

Is not this an object of national importance? Is not the protection and security of the commerce of those great inland seas deserving of the attention and care of the National Government? Is not its prosperity important to the strength, the security, and resources of the nation? If, then, this general object is one of national importance, every particular improvement made for this general object participates of the same character, and itself becomes national; provided that such improvement is necessary, and judiciously selected for the promotion of the general design.

I will add a word respecting the particular character of the improvements contemplated in this bill. They are such as, by a comparatively small expenditure, to produce a great amount of public benefit. Although, previous to the commencement of the improvements made by this Government, there was not a port or haven for the distance of near three hundred miles on the south shore of Lake Erie, which a vessel could enter in a time of danger, it has not been necessary to incur the expense of the entire construction of harbors. There were several natural harbors formed by bays and the mouths of rivers; but, in almost every instance, their entrance was so obstructed by sand bars as to destroy their utility. All that was required for the completion of safe and commodious harbors, was the removal of the sand bars by which their entrance was obstructed. The first appropriation for these objects was made in the year 1824. The plan of improvement then proposed was considered as an experiment, the success of which might be doubtful. But it has been attended with entire success; and the same plan, under the direction of the same skilful and experienced engineer, has been successfully adopted in all the improvements which have been commenced in those waters.

The necessity and importance of these improvements may readily be conceived by those who were acquainted with the navigation of those waters before they were commenced. The situation of vessels then navigating the lake was peculiarly dangerous. Sailing on a narrow sea, subject to storms as violent and sudden as those which are experienced in the Atlantic Ocean, without a light to di-

rect their course, or a harbor to afford protection, they were exposed to be driven from one extremity of the lake to the other, or to be shipwrecked on the coast. The consequence was a frequent loss and destruction, not only of the property, but of the lives of those who were employed in that navigation. The improvements already effected have been attended with the most beneficial results. I have often heard the opinion expressed by those who are most capable of forming an opinion, that, without taking into view the present advantages of those improvements, an annual saving of property has been effected to an amount larger than that of the appropriations which have been expended. One fact of itself is sufficient to show their importance. It is stated that, in consequence of those improvements, a reduction in the premium of insurance on that commerce, to the amount of fifty per cent., has been effected.

The remarks I have made tend to show the importance of those improvements, with respect to the commerce of that country. Much might be said to show that they are of great national importance for the defence of the country in time of war. I shall, however, content myself with mentioning one fact, which presents this consideration to the House more forcibly than any language of mine could do.

The victory of Commodore Perry, on Lake Erie, is familiar to us all; but the difficulties and dangers which attended its achievement, may not be equally so. The squadron commanded by that gallant officer was constructed in the harbor of Erie. The waters of that harbor are of sufficient depth for vessels of any burden, but its entrance was obstructed by a sand bar, which could not be passed by the vessels composing that squadron, without removing all their guns and munitions of war, and even then not without much difficulty and delay. During this time, the British fleet had the undisputed possession of Lake Erie, and the entire command of the entrance of that harbor. They were cruising along the coast, were watching the progress of our fleet, almost daily made their appearance off the bar, and occasionally threw their shot into the harbor. Under these circumstances, the danger of the American fleet in crossing the bar was a subject of much anxiety and apprehension. Every vessel would necessarily be exposed, in a dismantled and defenceless state, to the fire of the whole British squadron, and no one could foresee how its destructive effects could either be guarded against or resisted. But, as it would appear, almost by a Providential interposition, the very day that Commodore Perry commenced his operations for passing the bar, the British squadron left that coast and sailed to the Canadian shore, and, by unfavorable winds, and perhaps other causes, were prevented from returning for a period of seven or eight days. By the most unremitting exertions, continued night and day during this interval, the greater part of the American squadron were removed over the bar, the guns were remounted, and the ships, although not completely fitted for sea, were moored along the shore, and prepared for action. When the British squadron returned, and saw the change in the position of our forces, they did not think it prudent to offer battle, but sailed to Malden for a reinforcement. As soon as Commodore Perry could prepare his squadron for a cruise, he sailed in quest of the enemy. They were now met, and I need not mention the result. It forms one of the most brilliant pages in the history of our country.

These facts require no comment. They clearly show, that, for want of a single improvement of the kind contemplated by this bill, the whole American squadron was exposed to imminent danger of destruction, which might have turned the whole course of the Northwestern campaign, caused an expenditure of additional millions, and been attended with consequences disastrous beyond the power of calculation.

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Mr. McDUFFIE begged the friends of the bill not to consume the time of the House in making speeches against an opposition so untenable that it could not certainly gain thirty votes. The bill embraced no new objects; it embraced such only as former appropriations authorized, or standing laws required; and every item had been examined and approved by a committee. He hoped, therefore, that the debate would be left entirely to the enemies of the bill.

Mr. CARSON replied, and reiterated his objections to the bill, on the score of expediency and principle.

Mr. DRAYTON said that most of the items were proper, but there were some which he deemed unconstitutional. He could not vote for the bill.

The question was then taken on the third reading of the bill, and carried by the following vote:

YEAS.—Messrs. Anderson, Armstrong, Bailey, Barber, Barringer, Bates, Baylor, Bockee, Boon, Brodhead, Brown, Buchanan, Burges, Cahoon, Cambreleng, Chandler, Chilton, Clark, Condict, Cooper, Cowles, Crane, Crawford, Crockett, Creighton, John Davis, Deberry, Denny, Doddridge, Dorsey, Duncan, Eager, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Findlay, Finch, Ford, Forward, Gilmore, Halsey, Harvey, Hawkins, Hemphill, Hinds, Holland, Howard, Hughes, Hunt, Huntington, Ihrie, Thomas Irwin, William W. Irvin, Jarvis, Johns, R. M. Johnson, Kendall, Kincaid, Perkins King, Leavitt, Lecompte, Leiper, Lent, Letcher, Marr, Martindale, McDuffie, McIntire, Mercer, Miller, Mitchell, Muhlenberg, Overton, Pearce, Pettis, Pierson, Reed, Rencher, Russel, Sanford, William B. Shepard, Aug. H. Shepperd, Shields, Semmes, Sill, Smith, Speight, A. Spencer, R. Spencer, Sterigere, Henry R. Storrs, Wm. L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, John Thomson, Tracy, Vance, Varnum, Verplanck, Vinton, Washington, Whittey, Edward D. White, Wickliffe, Wilson, Yancey, Young.—113.

NAYS.—Messrs. Alexander, Allen, Alston, Angel, Barnwell, James Blair, John Blair, Bouldin, Campbell, Carson, Claiborne, Clay, Crocheron, Davenport, W. R. Davis, Desha, Drayton, Earll, Foster, Gaither, Gordon, Hall, Haynes, Hoffman, Jennings, Cave Johnson, Lamar, Lea, Lewis, Loyal, Lumpkin, Magee, McCoy, Nuckolls, Patton, Polk, Potter, Romaine, Standefer, Trezvant, Tucker, Wayne, Campbell P. White, Wilde, Williams.—45.

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#### INTERNAL IMPROVEMENTS.

The engrossed bill making additional appropriations for the improvement of certain harbors, and removing obstructions at the mouths of certain rivers, being read the third time,

Mr. CARSON, of North Carolina, rose, and said the liberties of my country are by this bill put up for sale. I for one will not be bribed to vote for it.

Mr. BARRINGER said he was very sorry to hear such language from his colleague. The liberties of the country put up to sale! How put up to sale, asked Mr. B.? It is an imputation on the House—not only on this House, but on every Congress from the foundation of the Government, and every Executive from the commencement to the present. This bill, Mr. B. said, presented no question of internal improvement, as that question is understood by Southern gentlemen generally.

He had voted on these appropriations heretofore; they were for objects annually provided for by Congress, and this was the first time that he had found out that they put up to sale the liberties of his country. This was a strange declaration—that in a bill of the most usual and customary character—to promote the commerce and revenue of the

country—which had been regularly provided for every year, without any body dreaming that it was a violation of the constitution—to hear it proclaimed now that it was selling the liberties of the country! If that is the case, where, he asked, was the vigilance of his colleague on former occasions, when similar appropriations had received his vote? The principle, Mr. B. said, had never been denied, that where the commerce of the country could be facilitated or increased, and the revenue derived therefrom was received exclusively by the General Government, that it was within the province of the Government to make the improvement; and this was strictly and peculiarly the case with harbors, and the mouths of rivers, where obstructions impeded or endangered the navigation. This was a species of improvement which it had never been contended devolved on the States themselves; they had been executed by the General Government from the beginning of the Government; at least such had been the action of Congress ever since he had been here, and the action, he believed, of those who had gone before us. It was for his colleague to exercise his own judgment for himself on this subject and all others; but, in mercy, Mr. B. said, he hoped his colleague would permit him to exercise the same right, without the imputation of selling the liberties of his country.

The SPEAKER checked Mr. B. He did not understand Mr. C. as imputing such a design to members, but only as speaking of the effect of the bill.

Mr. CARSON hoped the Speaker would permit his colleague to proceed, and cast every thing on him that he desired. He knew his motive.

Mr. BARRINGER resumed. He wished only to vindicate himself, not to cast any thing on his colleague. North Carolina had petitioned for the improvement of Roanoke inlet. This object was in no way different from the objects in this bill. North Carolina had petitioned Congress for the improvement of Ocracoke and the Cape Fear, and all her delegation had supported the application. It had been frequently before the House, and none of them had discovered that it was unconstitutional; and now, because these objects are embraced in this bill, are we who vote for it to be charged with being bought up? He had voted for such a bill every year when these objects were not included, and he should have voted for it now, if they had been excluded. Was he to vote against what was right, because he could not obtain what he conceived just, or vote against the bill, because the objects which his own State had at heart were included, lest he might be charged with being bought up? He protested against such imputations.

Mr. CARSON said that he was very glad that his colleague had let off some matter which he had been pregnant with for some—[The SPEAKER here interposed, and said that the gentleman's colleague had disclaimed any reflection upon the gentleman's motives.] I understood him to do so, said Mr. C., and I too disclaim any intention to reflect upon the motives of other gentlemen. My colleague says that I charge him with being bought: that was the purport of his speech. Sir, I made no such charge. I am willing to say that every member who votes for this bill believes that he is right. But I believe that they are wrong, and that those who do vote for it, whatever is their motive, are selling the liberties of their country. In ancient times the Roman leaders bought up the liberties of the people with the spoils of the conquered provinces; and this policy of internal improvement, and our high-handed tariff, are the means with which the liberties of this people are to be bought up. My colleague says he will not defend the constitutionality of the appropriations proposed by this bill, and well he may say so, for he cannot defend it. The constitution has been placed in the hands of empirics—of political quacks, who have given it a construction whereby it is swallowing up

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the liberties of the country; and, when they are gone, where are we to look for liberty? Where, sir, I repeat, are we to look for it? Almighty God may have ordained that liberty shall exist only in one hemisphere at a time. If so, the genius of liberty may have taken her flight from among us—she may have followed Lafayette across the waters—and whilst they have liberty in France, we may have tyranny here. I must believe, sir, if our liberties are saved, that it can be only by the interposition of the individual States; and, sir, I look to old Virginia, as the nucleus around which the States are to rally to resist the usurpations of the General Government. I look to her sons—to her Patrick Henrys (such men as he, who dared to declare that resistance of oppression was not treason)—I look to her Madison, to her Monroe, to you, sir, (the Speaker!) gentlemen may laugh, sir, but I look to such men; not to men bought up by appropriations and by the hope of office, but to men of high and elevated feelings and stern integrity, to save my country. If such men do not rouse themselves to action, our liberty is gone. Mr. C. concluded with saying, that perhaps he had spoken with too much warmth on this occasion; that he was sick, and had no intention to come here to-day; but that he had been sent for, and brought from his bed by a call of the House. He knew it was in vain to oppose the passage of this bill, and perhaps there was no use in a man's throwing himself into the breach, and receiving in his breast the daggers of all who were in favor of it. He attacked the system, not the motives of gentlemen: but he solemnly believed, if this sort of legislation was persisted in, our liberties were gone; and that nothing but the action of the States could save them.

Mr. BLAIR, of Tennessee, said, that, although, for several years past, he had voted for internal improvements, and had seen no reason to change his opinion or his course in that particular, yet he should vote against the bill, because of its partiality and gross injustice. That he was the more determined upon that course, from the arguments which have been urged in favor of its passage by the gentleman from South Carolina, [Mr. BARRINGER.] For his part, Mr. B. said, he could not see why the mouth of a river should be improved by the appropriations of the public money, more than its bed; nor why a measure of this description, coming from the Committee of Ways and Means, was not as much a measure of internal improvement, as if it had come from the Committee on Roads and Canals. Suppose the appropriation proposed by this bill, (so far as Ohio is concerned,) had been reported by the Committee on Internal Improvements in a separate bill, would not the gentleman from North Carolina have gone against that measure? Has he not invariably gone against such appropriations? What, then, shall we see, if we, from the interior, act upon the principles which govern his vote in favor of the bill? Why, sir, that there is to be a system of appropriations for bays and harbors, and the mouths of rivers and creeks; in short, a system of improvements for the tide water, to the total exclusion of the whole interior.

Shall I, as a representative of one of the districts in the interior, join in a crusade against that section of the country from whence I come? I cannot, I will not give my countenance to a measure so partial and unjust as that which is now under consideration. It is, therefore, sir, that I am obliged to turn my back against this bill, after having for eight years voted for what I thought was a system which would at least extend above the tide water. I beg of gentlemen to look to the provisions of this bill: the State of Ohio is the only State west of the Alleghany for which the smallest provision is made, and, in tender mercy to that State, the appropriations are limited to the mouths of the streams to be improved. When it shall be in order for me to call up the bill now on your table, to connect the waters of the Tennessee and Coosa rivers, will the

gentleman from North Carolina, and others, come out and say that that is constitutional? No, sir; they would not admit its constitutionality, because it is above the mouth, and not immediately connected with foreign commerce. Yes, sir, I might exhaust my strength here in vain, in showing the importance of this connexion; I should not be so fortunate as to get the vote of the gentleman from North Carolina and others, who limit the constitution to salt water improvements. If the proposition for such appropriation came from the Committee of Ways and Means, then, indeed, I possibly might get their votes; but not if it came from the Committee on Internal Improvements. He said that he was for improving the means of domestic as well as foreign intercourse and commerce. If the exclusive system proposed by this bill is to be persevered in, the people whom he represented would derive no benefit whatever from the expenditure of the public money. He believed this to be as much an internal improvement bill as any bill of that nature introduced at the present session. Of its constitutionality he had no doubt; but he denied the expediency of thus limiting and partially carrying the principle into effect. Once for all, I can assure the friends of a judicious system of internal improvements, that, whenever measures shall come before the House, looking alike to the West and the East, and promising to advance the great interests of the country, they should find his vote as it always had been. In self-defence, said Mr. B., the interior must finally come to this course. They will be compelled to unite in resisting a system of appropriations which promises nothing to their constituents, and would cause the operations of the Federal Government to be felt only in its burdens and exactions. He said that he hoped he was understood by the House, as some surprise had been manifested by friends around him, at his opposition to this bill when last before the House.

Mr. BARRINGER again rose. It had been his practice, he said, to vote for what he deemed just and expedient, no matter by what committee the measure was reported. In regard to the question before the House, he said, his rule was this: that, if he found the object connected with the commerce of the nation, and calculated to benefit that commerce, he deemed the object legitimate, and he gave it his support. For instance, the mouth of the Mississippi, one of the items of this bill, was important to the commerce of all the great rivers which flow into it, and he could not hesitate to support the appropriation; and if gentlemen would point out any objects not leading to some port, and calculated to facilitate the commerce of the country, he would agree to strike it out. On the lakes he knew there were ports, and these were necessary to the great and growing commerce of those waters, and he was as ready to support legitimate objects in the West as in the East. He would not condescend to inquire what part of the country the object was to benefit, so it was proper. If it came from the gentleman's [Mr. BLAIR's] committee, (the Committee on Internal Improvements,) he would support it just as soon as if it came from any other. He would leave it to that gentleman to say how he could now oppose measures which he had formerly supported, because he thought the conduct of others improper or inconsistent. For himself, Mr. B. said, seeing nothing in this bill variant from what he had always supported, he should give it his vote.

Mr. WHITTLESEY, believing that further debate would not change a single vote, moved the previous question.

The motion was sustained, and the question being put on the passage of the bill, it was carried by the following vote: YEAS.—Messrs. Anderson, Armstrong, Arnold, Bailey, Noyes Barber, Barringer, Bartley, Bates, Baylor, Beckman, Bockee, Boon, Brown, Burges, Butman, Cahoon, Cambreleng, Chandler, Childs, Chilton, Clark, Coleman, Condict, Cooper, Coulter, Cowles, Crane, Crawford,

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Crockett, Creighton, Crowninshield, Daniel, John Davis, Deberry, Denny, Dickinson, Doddridge, Dorsey, Dudley, Duncan, Dwight, Eager, Ellsworth, George Evans, Joshua Evans, Edward Everett, Findlay, Finch, Ford, Forward, Fry, Gilmore, Green, Grennell, Gurley, Halsey, Hammons, Harvey, Hawkins, Hemphill, Hodges, Holland, Howard, Hubbard, Hughes, Huntington, Ihrie, Ingersoll, Thomas Irwin, W. W. Irvin, Jarvis, Johns, R. M. Johnson, Kendall, Kennon, Kincaid, Perkins King, Leavitt, Lecompte, Leiper, Lent, Letcher, Mallary, Marr, Martindale, T. Maxwell, L. Maxwell, McCreery, McDuffie, McIntire, Mercer, Miller, Mitchell, Muhlenberg, Overton, Pearce, Pettis, Pierson, Randolph, Reed, Rencher, Richardson, Russel, Sanford, W. B. Shepard, A. H. Shepperd, Shields, Semmes, Sill, Smith, Speight, Richard Spencer, Sprigg, Stanbery, Steriger, Stephens, W. L. Storrs, Sutherland, Swann, Swift, Taylor, Test, John Thomson, Tracy, Vance, Varnum, Verplanck, Vinton, Washington, Weeks, Whittlesey, Edward D. White, Wickliffe, Wilson, Yancey, Young.—136.

**NAYS.**—Messrs. Alexander, Alston, Angel, Archer, Barnwell, James Blair, John Blair, Campbell, Carson, Claiborne, Clay, Coke, Conner, Craig, Crocheron, Davenport, W. R. Davis, Desha, De Witt, Draper, Drayton, Earll, Foster, Gaither, Gordon, Hall, Haynes, Hoffman, Jennings, C. Johnson, Lamar, Lea, Lewis, Loyall, Lumpkin, Magee, McCoy, Nuckolls, Patton, Polk, Potter, Ramsey, Roane, Scott, Standefer, Taliaferro, W. Thompson, Trezvant, Tucker, Wayne, C. P. White, Wilde, Williams.—53.

#### BEAUMARCHAIS' CLAIM.

The **SPEAKER**, proceeding to the orders of the day, called, as first on the docket, the bill to adjust and settle the claim of the heirs of Caron de Beaumarchais.

Mr. **ARCHER** moved that the House go into committee on this bill, stating that if it did so, an amendment would be offered to give the subject a direction different from the action of this House; but the motion was lost, only 24 rising for it.

#### RICHARD W. MEADE'S CLAIM.

The bill providing for this claim being next called, Mr. **ARCHER** said the magnitude of the claim was such that he should not call up this bill at this late period of the session; and it was passed by.

The House spent the remainder of the day in considering and passing a great number of private bills.

MONDAY, FEBRUARY 21.

#### INDIAN QUESTION.

The House resumed the consideration of the motion submitted by Mr. **EVERETT**, of Massachusetts, on Monday last, to instruct the Committee on Indian Affairs to report a bill making further provision for executing the laws of the United States on the subject of intercourse with the Indian tribes; and, also, for the faithful observance of the treaties between the United States and the said tribes.

Mr. **EVERETT** resumed the floor, and addressed the House nearly two hours in continuation and conclusion of the argument which he commenced when the subject was first under consideration, (as given in last Monday's report.

Mr. **HAYNES**, of Georgia, then rose, and said, when this subject was so elaborately discussed at the last session of Congress, and particularly when so large a share of that discussion was borne by the honorable gentleman from Massachusetts, [Mr. **EVERETT**,] and his friends, he had hoped it would never again be agitated in this House. When the proposition of the honorable gentleman was offered, he confessed he felt an excitement which would then have rendered him incapable of discussing it with becoming self-respect, or what was due from him to this House.

In his calmer reflections, he had determined to bring alone to its consideration the dictates of his understanding and his judgment, whatever of passion might heretofore have been mingled with it.

Imputing no motives to any member of this House, where such imputation is wholly inadmissible, he must say, that if, in the former discussions, here and elsewhere, he had thought he had discovered a political humanity regulating the movements of the opposition, he could see nothing in the present aspect of affairs in the slightest degree to change that opinion—a political humanity which, to say the most of it, is like that charitable knighterrantry which, overlooking the object at its feet, seeks for it among the antipodes.

If the half that has been said here and elsewhere should be believed, it would be sufficient, in speaking of an individual, to embody all that is infamous in calling him a Georgian. And for what purpose was all this outcry against the State of Georgia? It arises from the same principles which would have inflicted a consolidated Government on this country in 1787, whose advocates said of Mr. Jefferson, in 1807, that he could not be kicked into a war; which would have driven out Mr. Madison in 1814, for declaring and prosecuting that war; and which would drive out General Jackson now, because he defeated their hopes at New Orleans, and because he refuses to consider a constitution of limited powers a charter of unlimited powers. The party possessing these principles has changed its name, but not its principles. The national republicans of 1831 are the true successors of the ultra federalists of thirty years ago; and those who would drive General Jackson from the administration of the Government, do not differ from those who passed the sedition law of 1798. This party, which has, so far as names are concerned, shown the same facility of change as theameleon, now seeks, as it has sought ever since its hopes were disappointed in the federal convention, to arrive at its object through the instrumentality of the Supreme Court. But more of this subject hereafter.

In rising to address the House on the present occasion, illy prepared, by indifferent health and other public duties, to follow the gentleman from Massachusetts over the whole ground he had chosen to occupy, he should content himself with offering a few brief and desultory observations to the consideration of the House. Nor would he have risen, but for the peculiar relation which he bore to this question. Pending the discussion of it at the last session of Congress, under the most urgent importunity of his friends, he had forborne, at a critical period of the debate, from pressing himself into it, believing that its further protraction would probably lead to the defeat of the bill, in the provisions of which Georgia had a particular, as the country at large had a deep and general interest.

Although he had ever since held in his possession a document most distinctly proving the influence of this motive on his conduct at that period, yet such motive could not be generally known to his constituents, as the document alluded to had not been made public. But, as the day is at hand when his representative character will cease, he was not willing to stand unjustified before those he had represented to the best of his ability for the last six years. In the discussion of this question, on which so wide a difference of opinion existed between the honorable gentleman and himself, it is necessary to recur to the history of this country, to ascertain whether the Federal Government has confined itself to the pale of the constitution, or that Georgia has overleaped the barriers of her rightful sovereignty. In discussing this branch of the subject, he should not inquire whether this continent, at the time of its discovery, was considered as a part of St. Peter's patrimony, nor how it might then have been regarded by papal bulls in favor of certain discoverers. Nor should he inquire into the quaint phrases which may or may not



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be found in any of the charters granted to the colonists by which it was settled. It had been said on a former occasion, that the rights of discovery set up by Europeans related solely to the effect of those rights on each other. In part this is true, and in part it is not true. That those rights were relative to the discoverers, as regards the question of boundary, is admitted; but it is asserted, without the fear of contradiction, that they were positive, were absolute in their relation to the original inhabitants of this continent. As it regarded those inhabitants, the nations of Europe which planted colonies here considered their occupancy permissive merely. Nor can any other principle of national law be produced on this subject; nor is it necessary to inquire into the justice of such a principle. If it be unjust, and shall be so decided, then the millions who have descended from the original colonists, with all who have been added by later emigration, must take refuge on the eastern shores of the Atlantic.

If this right of discovery does not avail Georgia, it is of as little avail to any other State in this Union. But, to say no more of it, we find ourselves placed under the operation of this principle, and it is too late to talk of changing it. But it might be asked how he arrived at the conclusion that such a principle had been adopted by the discovering European nations which planted colonies on this continent. He would answer, in the history of all. Nor would he shelter himself under the enormities practised by Spain on the aborigines of Mexico, South America, and the West India islands. Great Britain acted on the same principles in granting charters to her North American colonies. From the earliest of those charters to that granted to Georgia in 1732, this principle runs throughout; nor had he observed, upon an examination of a number of them, that any peculiarity existed, except that, by charter, the exclusive right is secured to Rhode Island, "upon just cause, to invade and destroy the native Indians, or other enemies of the said colony." Nor should he complain that Rhode Island chose still to live under that charter, nor inquire why so poor a remnant of the once powerful tribe of Narragansett has escaped from former wars, and the no less destructive vices of civilized life, operating on an inferior and degraded caste.

The original charters of the King of England granted to the colonies all the lands included within certain points on the Atlantic coast, extended by lines due west to the Pacific. Nor in this particular was the charter of Georgia less extensive than the rest.

It originally granted to her the seacoast from the mouth of Savannah to the mouth of the Altamaha river; thence, up those streams, to their headmost branches, respectively; and thence, due west, to the Pacific Ocean. At the close of the war of 1757, which war was terminated by the treaty of Paris in 1763, Great Britain acquired the Canadas and the Floridas. In settling the boundaries of the Floridas in 1763, the British King extended them to the mouth of St. Mary's river; thence, up that river, to its source; thence, by a direct line, to the junction of Chatahoochie and Flint rivers, and up the Chatahoochie to the thirty-first degree of north latitude, and due west to the Mississippi. In the following year, by royal commission to Governor Wright, the southern boundary of Georgia was extended, so as to correspond with the northern boundaries of Florida, as defined by the proclamation of 1763—the Mississippi being made the western boundary of the British colonies, in conformity to the stipulations of the treaty of Paris. But, so far as he had been able to inform himself, the principle of sovereignty over the whole country was distinctly to be traced in the commissions to the colonial Governors. Having thus shown that Great Britain claimed sovereignty over all the country within her colonies, he would inquire how this matter stood at the commencement of the revolution, and how far the powers of the States have been circumscribed, either by

the terms of the articles of confederation, or the constitution which now binds them together. The declaration of independence, the magna charta of American liberty, was adopted on the 4th day of July, 1776, and its recognition by Great Britain, in 1783, has relation to that period.

Then, by the acknowledgment of our independence, and the time to which that acknowledgment related, we arrive at the conclusion, that, so soon as it was declared by Congress, every right and power previously possessed by Great Britain over the colonies devolved immediately upon the respective States, not upon the States as confederated, because the articles of confederation were not adopted until some years afterwards. He would not take the trouble to state the time of their adoption, as it was only necessary for his argument to show that they did not exist until after the declaration of independence. He thought he had now clearly shown that, on the 4th of July, 1776, the respective States entered into the possession and enjoyment of all the rights which Great Britain had previously exercised within them as colonies, and that those rights included every inch of soil, and all the sovereignty which any State can exercise. Nor should he deem it important to present this view of the subject, if it had not been said that the treaty of 1783 passed the sovereignty previously possessed by Great Britain over the colonies to the confederation, and not to the respective States. In addition to the argument he had presented to show that the sovereignty of the States passed to them respectively, it might be sufficient to add, that questions of boundary between them (and such have arisen in numerous instances) have been uniformly settled by reference to the letter and spirit of their respective charters. But further light might be shed upon this subject by consulting the various instructions which were issued to the American commissioners, under which the treaty of 1783 was negotiated, as well as the instructions given at different periods for negotiating with Spain on the subject of boundaries. In the various instructions thus given to the commissioners in 1779 and '80, and reiterated in 1781, it will be found that the confederation proceeded on the principle of regulating the boundaries on the basis of the various colonial charters, in which the southern boundary contended for is the identical one set forth in the commission to Governor Wright, in 1764. And here it might not be improper to add, that the definitive treaty of peace with Great Britain, in 1783, pursues the instructions on the question of boundaries without variation. Nor do the instructions to treat with Spain, in 1780, depart from the same principle.

Since the adoption of the federal constitution, in 1792, the same rule was adopted by Mr. Jefferson in relation to the southern boundary, which resulted in the provisions of the treaty of San Lorenzo el Real on that subject. Nor might it be improper for him to add, that the same principle enters into the discussion of the yet unsettled question of our eastern boundary.

But he was aware that a pretence was set up during the revolution, that the unsettled land within the respective States was acquired as the common property of the confederation, and that various attempts were made to induce Congress to act on that principle. He believed that he had sufficiently shown that directly the contrary was the fact, and that the States respectively acquired it before the articles of confederation were brought into existence. He well knew that the States were earnestly called on for cessions of land, but he was not aware that any of value had ever been made, except by Virginia, North Carolina, and Georgia.

But, after much discussion as to the right of the confederation, a clause was inserted in the ninth article, on the 15th of November, 1777, providing that "no State shall be deprived of territory for the benefit of the United States." But the subject is further illustrated by the reso-

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lution of the 16th of September, 1776, for providing bounty lands for the soldiers who might enlist in the continental army. That resolution says: "Such lands to be provided by the United States, and whatever expense shall be necessary to procure such lands, the said expense shall be paid and borne by the States, in the same proportion as the other expenses of the war." Now, if these waste lands had been considered the property of the confederation, a direct appropriation of them would have been made, particularly as the object of bestowing them in bounty would have derived considerable support from a desirable designation of them. But, for the purpose of further enforcing his view of the subject, he would refer the House to an act passed by the Legislature of Georgia on the 1st day of February, 1788, proposing a cession of a large portion of her western lands; a cession which he exceedingly rejoiced had not been accepted by the Federal Government, as, by it the western limit of the State would have been drawn within the northernmost point of the thirty-third degree of north latitude. But he would refer more particularly to the conditions proposed by Georgia, and the reasons of their rejection by the confederated Government of the Union. The proposition of Georgia, after describing the country offered for cession, states the following conditions: 1st. "That the United States in Congress assembled shall guaranty to the citizens of the said territory a republican form of Government, subject only to such change as shall take place in the federal constitution of the United States. 2dly. That the navigation of all the rivers included in the said cession shall be equally free to all the citizens of the United States; nor shall any tonnage on vessels, nor any duties whatever, be laid on any goods, wares, or merchandise that may pass up and down the said waters, unless for the mere benefit of the United States. 3dly. That the sum of \$171,428 45-90, which has been expended in quieting the minds of the Indians, and resisting their hostilities, shall be allowed as a charge against the United States, and be admitted in payment of the specie requisition of that State's quotas that have been or may be required by the United States. 4thly. That, in all cases where the State may require defence, the expenses arising thereon shall be allowed as a charge against the United States, agreeably to the articles of confederation. And, 5thly. That Congress shall guaranty and secure all the remaining territorial rights of the State, as pointed out and expressed by the definitive treaty of peace between the United States and Great Britain, the convention between the said State and the State of South Carolina, entered into the 28th day of April, 1787, and the clause of an act of the said State of Georgia, describing the boundaries thereof, passed the 17th of February, 1783."

But what was the answer of the committee to these propositions—an answer in which Congress acquiesced? Not that the territory in question belongs already to us; not that all the vacant land in any of the States was acquired by the common blood and treasure, and is therefore the common property of the Union; but, "The committee, having fully considered the subject referred to them, are of opinion that the cession offered by the State of Georgia cannot be accepted on the terms proposed. 1st. Because it appears highly probable that, on running the boundary line between that State and the adjoining State or States, a claim to a large tract of country, extending to the Mississippi, and lying between the tract proposed to be ceded and that lately ceded by South Carolina, will be retained by the said State of Georgia; and, therefore, the land which the State now offers to cede must be too far removed from any other lands hitherto ceded to the Union, to be of any immediate advantage to it. 2d. Because there appears to be due from the State of Georgia, on specie requisitions, but a small part of the sum mentioned in the third proviso or condition before

recited; and it is improper, in this case, to allow a charge against the specie requisitions of Congress which may hereafter be made, especially as said State stands charged to the United States for very considerable sums of money loaned. And, 3d. Because the fifth proviso or condition before recited contains a special guaranty of territorial rights, and such a guaranty as has not been made by Congress to any State, and which, considering the spirit and meaning of the confederation, must be unnecessary or improper. But the committee are of opinion that the first, second, and fourth provisos before recited, and also the third, with some variations, may be admitted; and that, should the said State extend the bounds of her cession, and vary the terms thereof, as hereinafter mentioned, Congress may accept the same; whereupon, they submit the following resolutions:

"That the cession of claims to western territory, offered by the State of Georgia, cannot be accepted on the terms contained in her act passed the 1st of February last.

"That, in case the said State shall authorize her delegates in Congress to make a cession of all her territorial claims to lands west of the river Appalachicola, or west of a meridian line running through or near the point where that river intersects the thirty-first degree of north latitude, and shall omit the last proviso in her said act, and shall so far vary the proviso respecting the sum of \$171,428 45-90, expended in quieting and resisting the Indians, as that the said State shall have credit in the specie requisitions of Congress to the amount of her specie quota on the past requisitions, and for the residue in her account with the United States for moneys loaned, Congress will accept the cession."

It appeared strange to his mind, that any one could doubt, after an examination of this report, the absolute right of the States to all the unlocated territories within their limits. It might be asked why it was unnecessary or improper to require of Congress a guaranty of the remaining territory. To this it was a sufficient answer to say, that the committee must have based the refusal on the clause of the ninth article of confederation, which he had already quoted, namely, "that no State shall be deprived of territory for the benefit of the United States." Nor is it unimportant to state that the identical land now occupied by the Cherokees within the limits of Georgia, is a portion of the territory which the committee of Congress stated would be retained by that State, if the terms of cession proposed by her should be adopted.

But the doctrine contended for is further sustained by the fact, that the cession previously made by Virginia of her northwestern territory was coupled with a reservation of the land between the Scioto and Miami, for satisfying bounty warrants issued, and to be issued, to the officers and soldiers of the State line in the revolutionary army. Nor was the cession afterwards made by North Carolina, now constituting the State of Tennessee, uncoupled with conditions of a similar character. And the State of Connecticut, relying on her territorial rights, as secured by charter, derived, at a much later period, a considerable sum from her reserve west of the Ohio. Having brought these facts and arguments to the consideration of the House, he hoped we should not again hear of the right of the United States to the unlocated land in the respective States, as a common fund for paying the debts and defraying the expenses of the Union, on the ground that they were acquired in the revolutionary war as the common property of the confederation. He knew very well that Maryland, New Jersey, and Rhode Island were the most strenuous advocates of the right of the Union to land thus situated; but, notwithstanding they exerted themselves to procure the incorporation of such a principle into the articles of confederation as a prerequisite to their ratification of them, they finally ratified without it. But it might be proper for him to state that the two latter

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States, in the instructions which they gave to their delegates in Congress, distinctly disclaimed for the Union any jurisdiction over such lands. Well, then, might it excite surprise, that, at this late day, they should be among the foremost to insist on such jurisdiction.

He thought he had now fully answered the objection, that the waste lands were acquired as the common fund of the Union, and that the declaration or recognition of American independence regarded these States solely in their confederate, and not in their individual character.

But, in further illustration of the doctrine which he maintained, he might have adverted to the jurisdiction exercised by nearly all the colonies over the Indian tribes within their respective limits.

He might have spoken of laws enacted by one, giving a premium for Indian scalps, and for the rearing of dogs to hunt them down, which he believed the honorable gentleman from Massachusetts could not deny had been done by his own State within the period of her colonial existence. He might have spoken of their being transported by another colony beyond seas, and sold for slaves. How another had restrained their liberty, by forbidding their going from home after a certain hour at night, without a pass or permit from a white man, under the penalty of corporal punishment. Of the act passed by Pennsylvania in 1743, adding for criminal jurisdiction all the wild country of that colony to the county of Philadelphia; and how that act, as he had recently understood, on the highest authority, had been enforced upon an Indian the following year, for manslaughter committed in a remote corner of the country thus annexed to that county. He might have adverted to the jurisdiction exercised within a few years past upon an Indian within the limits of New York; but if the facts and principles presented by him be correct, and he did not doubt it, it could not be necessary to go into such particulars. He should not refer to them in this cursory manner for the purpose of inquiring into their propriety or impropriety. He would leave that to be settled by the consciences of those who had presumed to question the conduct of Georgia for the execution of a Cherokee Indian for the murder of another Cherokee Indian. He would not be understood as referring to them for the purpose of examining the comparative cruelty of Georgia and other States, as, among the wise and good, he had too much confidence in the belief that blood will not be considered as sticking to her skirts for the execution of a murderer.

But, since it has suited the convenience of politicians of a certain order to rail against Georgia, we have been stunned by the cry of violations of the treaty-making power. It is, therefore, necessary to inquire what is that power, and wherein has it been violated? And, before proceeding further with the subject, it is necessary to state that this power was nearly the same under the confederation that it is under the constitution since adopted; and to ascertain its extent and meaning in relation to Indians, it becomes necessary to inquire in what manner it was exercised, if exercised at all, in our intercourse with them. But it would be quite as convenient to state the treaty-making power, and the power regulating our intercourse with the Indian tribes, under the articles of confederation. In the ninth article, among various other powers, it is provided that "the United States in Congress assembled shall have the sole and exclusive power of entering into treaties and alliances." This is coupled with a proviso protecting the commercial power of the States as it then existed. It is further provided in the same article, that "the United States in Congress assembled shall have the sole and exclusive right and power of regulating the trade and managing all the affairs of the Indian tribes, not members of any of the States; provided the legislative right of any State within its own limits be not infringed or violated." Let us, then, consider, first, what are the legislative rights of a State.

They consist in the power of making and enforcing laws over all and every description of persons within her limits. If this be true, and how it can be denied he could not understand, it necessarily follows that every Indian tribe resident within a State is a member of the State, within the meaning of the first clause conferring the power relative to Indians, and in this sense he believed it had been acted on in a great majority of the old thirteen States, and should have been so acted on in all.

So much, then, for the present, as respects the power of the confederation to "regulate trade and all affairs with the Indians." But to return to the treaty-making power, and its reference to Indians, as we find it interpreted by the acts of the confederation. We find in the journal of their proceedings various compacts or agreements with Indians, which are not now, and never have been, treaties. He might be asked why he made the assertion. To which he would answer, that while all the treaties with foreign nations, even that concluded with the kingdom or empire of Morocco, were solemnly ratified according to the provisions of the articles of confederation, no such solemnity was ever conferred upon a compact or agreement made with an Indian tribe, during that whole period. In what light, then, must we view these compacts; and under what specific power must Congress have considered them to have been made? Surely, under the power to regulate trade and manage the affairs with the Indian tribes. But if a correct definition of the legislative rights of States had been laid down by him, it follows, incontestibly, that the treaty of Hopewell, so called, upon which the changes have been rung from one end of the Union to the other, violated the legislative rights of the States of North and South Carolina and Georgia. Congress, too, seems to have been sensible of this; for, in the proclamation issued by them in the year 1788, for enforcing it, they close with the proviso, "that nothing contained in this proclamation shall be considered as affecting the territorial claims of North Carolina." Nor can it be asserted that Georgia stood quietly by while these things were transacting. So early as the 11th of February, 1786, the House of Representatives, having taken into consideration the "pretended treaty," as they called it, and called it justly, entered into at Hopewell with the Cherokees in 1785, and the attempt to enter into a treaty at Galphinton with the Creeks about the same period, determined that, in doing so, the "commissioners did attempt to exercise powers that are not delegated by the respective States to the United States in Congress assembled." After setting forth the rights and privileges of the States, they resolve "that all and every act and thing done, or intended to be done, within the limits of this State, by the said commissioners, inconsistent with the beforementioned rights and privileges, shall be, and the same are hereby, declared null and void."

But, before proceeding further, it would be proper for him to state that the course which Congress pursued relative to the agreements or contracts called Indian treaties, shows most manifestly that they considered such contracts as falling within the power to regulate trade and affairs with the Indian tribes, and not within the treaty-making power. And if his definition of the legislative power of a State was correct, and he did not fear contradiction, Congress had, by the terms of such contracts with tribes living within any of the States, violated those "legislative rights" they intended to be secured and defended by the articles of confederation. But his opinions might derive additional confirmation by referring to the second article, which provides, "each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled."

He had shown that Congress never considered itself authorized to make treaties with Indians residing within the limits of a State, for they never treated their contracts

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with them as such. He thought it was equally clear that they had no power whatsoever over them, in that or any other way, inasmuch as such power not only was not expressly delegated, but was expressly reserved by the clause in the ninth article, which provides that the power to regulate trade and manage affairs with the Indian tribes shall not extend to such as are members of a State; but further, and "that the legislative right of a State within its own limits be not infringed or violated." Surely it could not be necessary for him to recapitulate his arguments, to show that the charters defined the limits of the respective States, and that their legislative rights extended over all persons within those limits. But he was aware that it might be objected, that, by the provisions of the federal constitution, the powers of this Government had been enlarged. He was very much mistaken if he could not show by the most legitimate arguments, that, with respect to Indians, they had not been thus enlarged. The provisions of the constitution resorted to by the adversaries of Georgia, who are alike the opponents of the present administration of the Federal Government, are the treaty-making power and the commercial power. At least, he was not aware that such rights were claimed for the Indians, except under the operation of these two powers. Perhaps he might say they are claimed singly and alone under the treaty-making power. But let us see what are these provisions of the constitution. In the eighth section of the first article, power is conferred on Congress "to regulate commerce with foreign nations and among the several States, and with the Indian tribes." And in the second section of the second article, which defines the power of the President, it is provided, that "he shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." In the second section of the first article, it is provided, in the clause relating to the ratio of representation, that it shall include "the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed," &c.—applying the treaty-making power to Indian tribes within a State in the light in which he had considered them; and it was utterly impossible to consider them as falling within its operation; for in this particular he considered the tenth article of the amendments equally as broad as the second article of confederation which he had quoted. He knew an elaborate argument had been made to show that the absence of the word "expressly" from that amendment went to enlarge the powers of the Federal Government. But he did not believe any man, not desirous to gain power by every practicable contrivance, would rely upon such an interpretation. By a fair rule of construction, that term in the second article of confederation was as applicable to the second as the first member of the sentence; and its absence from the amendment applies equally to the second as to the first member of that amendment. If he should be asked by what rule of construction he arrived at this conclusion, he would answer, if the amendment contained the word expressly in the first member of it, it would be understood as belonging equally to the second. Thus, "the powers not (expressly) delegated to the United States by the constitution, nor (expressly) prohibited by it to the States," &c. Thus, if the absence of the term enlarges the first member of the amendment, it operates an equal enlargement of the second; and this shows, that, so far as the amendment is concerned, it places the constitution precisely on the footing of the second article of confederation as to the power conferred on the Government by either. If he had shown (and he thought he had done so) that the treaty-making power did not apply to Indians within a State, either under the confederation or the present constitution, neither can the power contended for be derived from the clause of the constitution which confers the commercial power. The same clause which relates to the regulation of com-

merce with foreign nations, also prescribes by whom it shall be regulated among the States, and with the Indian tribes. In the view which he had presented, it would be obvious that a provision respecting Indians would not have been necessary, and he had no doubt would not have been adopted, if there had not been such tribes residing beyond the limits of the States. But whether his opinion be correct or not, the advocates of Indian rights cannot shelter themselves under this power, without subverting the rights of the States, and converting this confederation into a consolidated Government. For if the terms of the grant give to the Federal Government exclusive jurisdiction over the Indians, they give jurisdiction equally exclusive over the States; for they are precisely of the same import in relation to each. But it may not be improper to refer to the operation of the power, not only the power but the right of the States, in making up their representative numbers, to include Indians who are taxed; for the exclusion of Indians not taxed is a clear inclusion of those who are taxed. He did not know that any Indians, in any one of the States, had been taxed previous to the formation of the constitution, or even since; but it conveys an undoubted right so to tax them. If this high sovereign power of taxation may be exercised over them, in what particular, then, can they be exempted from any and every act of sovereignty which a State may rightfully exercise over her white inhabitants? The gentleman from Massachusetts had laid great stress on the obligation of treaties with the Indians. He did not intend to say that they were without obligation in some form upon this Government. What he meant to say, was, that no treaty with the Indians, or others, can convey away the soil, or trammel the constitutional sovereignty of a State, both which consequences would follow that gentleman's interpretation of them.

Georgia had not acquiesced in what she considered the usurpations of the Federal Government, as growing out of its contracts with Indian tribes. He had already adverted to the protest, in 1787, against the treaties of Hopewell and Galphinton, and would now call the attention of the House to a similar, but more elaborate and detailed protest, adopted on the 9th of February, 1797, against the treaties before mentioned, and all others since made with the different tribes, including the treaty of Colerain, concluded with the Creek Indians in the summer of 1796.

Although this remonstrance did not prevent the ratification of the treaty of Colerain, it led to the adoption of a proviso, to which he would refer. It provides that the treaty should not "affect any claim of the State of Georgia to the right of pre-emption in the land therein set apart for military or trading posts, or to give to the United States, without the consent of the said State, any right to the soil, or to the exclusive legislation over the same, or any other right than that of establishing trading posts within the Indian territory mentioned in those articles, as long as the frontier of Georgia may require those establishments." From that period until the compact of 1802, there seems to have been no other exercise of power by the United States with the Indians in Georgia, nor protest on her part against it. By that compact, Georgia ceded a large portion of her territory, and the United States ceded to her all "claim to soil and jurisdiction" within the limits which the State then reserved for her own use.

But he did not place the title of Georgia on the terms of that compact. It stood on higher ground. It was derived from the declaration of independence, as he had already demonstrated. He had referred to the compact, to meet objections which might arise in the mind of any gentleman who might not agree with him in placing her title on the ground assumed by him.

But the gentleman from Massachusetts accuses Georgia of violating the intercourse law of 1802, and the President of countenancing its infraction by her. By that law, it is distinctly provided that Indian communities, sur-

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rounded by a white population, shall be excluded from its operation. Why was this done, if the States, respectively, within which they resided, had not, and did not exercise jurisdiction over them? It was impossible to arrive at any other conclusion. But it was of some importance to compare the dates of that law with the date of the compact of 1802. The law was passed on the 30th of March, and the compact was entered into on the 24th of April following. If, then, in any view of the subject, Congress had the power to except certain Indian communities from the operation of the law, was it not equally fair, by surrendering all claim to soil and sovereignty within certain limits to Georgia, that the Indians within those limits should be excluded from the operation of the law? The gentleman has objected to the compact with Georgia, as unconstitutional. Does he forget that new States may be formed out of parts of those already existing, provided they give their consent? And does he not know that such consent is not only given by Georgia, but given in the form of a requisition on the Federal Government? But, perhaps, the gentleman considers the compact fair enough in whatever the General Government gains by it, and only unfair as its provisions may operate favorably to Georgia. The gentleman from Massachusetts has told us that the Cherokee Government was adopted on the suggestion made to their chiefs by Mr. Jefferson, in 1808 or '9; but does he not remember that no State can be formed within the limits of another but by its consent? But suppose it be conceded that the Cherokee is a foreign Government existing within the limits of Georgia, what consequence would follow? That the Federal Government would be bound to remove it. What is there to restrain such a Government to the republican form? And yet every one knows that the constitution guaranties to every State a republican form of Government. Then can any other exist within the limits of a State? Most certainly not.

Mr. H. said it was entirely unnecessary for him to go into a detail of the various recommendations of successive Presidents on this subject. It was well known that Mr. Jefferson looked to the ultimate location of the Indians west of the Mississippi. If he was not greatly mistaken, that entered as a motive into the purchase of Louisiana. He believed there might now be found an act in the statute book, passed during the administration of Mr. Jefferson, looking to that object. The recommendation of Mr. Monroe, and the course of Mr. Adams on this subject, must be known to every one. The act of the last session, commonly called the Indian bill, was but in conformity, so far as it concerned the Cherokees, with a treaty made with the western portion of that tribe by Mr. Adams, in May, 1828. Mr. H. said he knew that treaty looked to the emigration of the Cherokees, and he also knew that appropriations for that object then had the support of the honorable gentleman from Massachusetts, and his friends now acting with him, in opposition to a policy which can, in no sense, be considered in any other light but extending and carrying out the policy of Mr. Adams. The gentleman from Massachusetts chooses to find fault with the country to which it is proposed to remove the Cherokee Indians. Mr. H. said, for his part, he had received the most satisfactory information on that subject. His information was derived from one of the most intelligent red men he had ever seen, a man belonging to the Cherokees of the West. But it could only be necessary to refer gentlemen to the provisions in favor of the intruders on Loveley's purchase, a part of the territory ceded by the treaty of 1828 to the Cherokees, to show that it was any thing but unproductive and undesirable. If he recollected the terms of the law on the subject, it gave to each head of a family of intruders a pre-emption to half a section of land as an equivalent for the inconvenience of removing from the country on which he had intruded. But the honorable gentleman finds fault with the Governor of

Georgia for notifying the Cherokees and others within the territory claimed by them within the limits of the State, that the laws of Georgia would be or were extended over that territory, on and after the 1st day of June, 1830.

He would not enter into any inquiries about the proclamations then issued. He would only say he had no doubt they were issued with the best intentions towards the parties concerned. Nor has he been sparing of his censure upon the President of the United States and the Governor of Georgia, for the manner in which they have treated intruders on the gold lands lying within that State, and claimed by the Cherokee Indians. If he understood the gentleman, he represented the President and the Governor as alone solicitous to prevent the Cherokees from digging gold. If he was correct in this understanding, he could tell the honorable gentleman that he was greatly mistaken. The instructions of the Governor to the agent sent by him to the Cherokee nation last summer, and the manner of their execution, go to show that it was intended to remove the gold diggers of every character and description whatsoever. More than this, so far as the citizens of Georgia were concerned in that business, it was a well known fact, that they, in a formal manner, expressed their readiness to abandon it, provided the white men from other States, and the Indians, should be restrained from digging gold. Their view of the subject was a rational and correct one. While they, after being warned of the consequences, neither desired to embarrass the Government of Georgia, nor this Government, they said this precious metal is the common property of Georgia. We are her citizens, and why should not we have part of it, while the citizens of other States and the Indians are dividing it among them? We know that it has been solemnly decided by the Supreme Court of the United States, that Georgia has a freehold right to all the land occupied by Indians within her limits. Nor is it unreasonable, whatever possessory right may be held by another, that the owner of the freehold should prevent the commission of waste by any other person.

Mr. H. said he could not suppose it necessary to state to the honorable gentleman the principles which govern freehold right. The gentleman has seen fit to arraign, with much censure, the law of Georgia which extends to a Cherokee the right to absolve himself from an obligation entered into with a white man, while no such option is extended to the white man. And is it possible that the honorable gentleman will not understand the intention of that law? Does he not see in it the same benevolent purpose which dictates a similar principle in relation to infants? It is impossible to give any other construction to the intention of the Legislature of Georgia.

But the honorable gentleman has not permitted the conduct of Georgia to pass without severe reprehension for passing an act at the last session of her Legislature, for the survey of the lands occupied by the Cherokees within her limits. To enforce his pathetic appeal, he had read, with much emphasis, an extract from a letter published in one of the newspapers of Augusta, in Georgia. Mr. H. regretted that the honorable gentleman had not favored us with the name of the writer of that letter. A knowledge of that name might enable him to unravel the motive with which it had been written. Although he had an opinion who did write that letter, yet he would not impute motives to the supposed author upon suspicion only. He, too, could read extracts from letters having responsible names—not printed and anonymous—letters from men well known, and of high respectability, in Georgia—letters going to show that in the proposed survey and occupancy of the wild lands in the Cherokee country, so called, it was not intended to molest the occupants. Indeed, the very section of the law which had been read by the honorable gentleman shows, most conclusively, no other intention. Nor was it designed only to afford a feigned protection to themselves, their families, and such improvements as, accord-



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ing to the former opinions of Mr. J. Q. Adams, could give an Indian title. He referred from memory to an anniversary oration delivered by that gentleman, some years ago, in commemoration of the landing of the pilgrims at Plymouth. Then is there one rule for estimating Indian title when it conflicts with the interest of the pilgrims or their descendants, and another rule for Georgia? But, he said, he well knew at least one prominent motive which governed some of the members of the Legislature of Georgia, who made most strenuous exertions for the immediate survey and occupancy of the wild lands in the Cherokee country. He knew this, because they were of the number of his particular friends.

Indeed, it is a motive which would then have operated, and would now operate, on his own mind, if he was a member of that Legislature. It was that the laws of Georgia might operate on the Cherokee Indians; not with a desire to coerce their removal, but as they were under the rightful jurisdiction of the State, that jurisdiction might be exercised over them. The honorable gentleman asks, if a citizen from another State should go to sojourn at Savannah, would a law of Georgia be tolerated, which required of him to take an oath of allegiance to her? And yet, the gentleman says, it is equally unjust to require such an oath of a citizen who may reside among the Cherokee Indians. Cannot the gentleman see a marked difference in the two cases? Savannah being a community acknowledging the Government of Georgia, such a law would be unreasonable in relation to her. But not so in the Cherokee country; there an independent Government is pretended to be set up, in defiance of the authority of Georgia. And is it wonderful that she should require white men who go there to take an oath of allegiance to her? Most certainly not. But of all the objections taken by the honorable gentleman, it is, perhaps, most unfortunate for him that he should have selected the case of Tassels for the theme of his eloquence—Tassels, who, nobody denies, was guilty of murder on a man of his own tribe! But the high offence of Georgia, in the opinion of the gentleman, consists in her disobedience to the citation of the Chief Justice of the United States. Let us examine into the power of that officer to issue and enforce that precept. But, before doing so, he would take leave to call the attention of the honorable gentleman to the course pursued by Massachusetts in 1793, before the eleventh amendment to the constitution had been adopted, and when the judicial power of the United States was as broad as originally laid down in the second section of the third article of that instrument, and this under circumstances far less strong in her favor. Does the gentleman recollect that at that period the Supreme Court decided that it had jurisdiction of a cause brought before it by an individual against the State of Massachusetts? And does he not know that it was considered of sufficient importance by Governor Hancock—John Hancock, once President of Congress—to require him to convene the Legislature? And does not the gentleman recollect the principles laid down by that distinguished man, as it regards the right of a people to examine and to change their form of government? But Mr. Hancock's opinions may be better understood by referring to the language of his message to the Legislature, in September, 1793. After adverting to the cause of complaint, he says: "The idea that it is dangerous to examine systems of government, and to compare the effects of their administration with the principles on which they are raised, is inadmissible among a free people. If the people are capable of practising on a free government, they are able, without disorders or convulsions, to examine, alter, and amend the systems which they have ordained. And it is of great consequence to the freedom of a nation to review its civil constitution, and to compare the practice under it with the principles upon which it depends. The tendency of every mea-

sure, and the effect of every precedent, ought to be scrupulously attended to and critically examined. This is the business of the Representatives of the people, and can never be by them confided to any other persons.

"The great object presented to us by our political situation, is the support of the General Government, the giving force and efficacy to its functions, without destroying the powers which the people intended to vest and to reserve in the State Governments.

"A consolidation of all the States into one Government would at once endanger the nation as a republic, and eventually divide the States united, or eradicate the principles which we have contended for.

"It is much less hazardous to prevent the establishment of a dangerous precedent, than to attempt an abolition of it after it has obtained a place in a civil institution."

How different the opinions and conduct of that high-souled patriot from those who, at this day, consider the Union endangered by a proposition to repeal a single section of a law! When it is recollected that Governor Hancock survived but a few weeks after this message was written, it requires no stretch of imagination to consider it his political testament, containing the most solemn warnings to coming generations. He was not so fortunate as to have laid his hand upon the proceedings of the Legislature, in consequence of the message to which he had adverted. Within a few weeks after it was written, Governor Hancock ceased to live, and the executive functions devolved on the venerable patriot Samuel Adams, as Lieutenant Governor. Nor had he been able to refer to a communication subsequently made by Governor Adams to the Governors of the other States; but there could be little difficulty in arriving at its import, and the character of the legislative proceedings to which it referred, by a moment's attention to the proceedings of the House of Representatives of Georgia, under date of the 12th of December, 1793. That the subject might be the better understood, he would refer to them.

"A communication from his Excellency Governor Adams, of the State of Massachusetts, which was ordered to lie on the table, being taken under consideration, a motion was made by Mr. Watkins that the House do come to the following resolution:

"Resolved, That this House do highly approve of the measures taken by the Legislature of the State of Massachusetts, in the case of an attempt to compel the Executive of that State, by mandatory process, to answer to a suit instituted by an individual in the Supreme Court of the United States; that the Governor do answer the communication of Governor Adams on that subject, expressing the great objects which stimulated similar exertions, on the part of this State, to guard her retained sovereignty; and that this State has, and will at all times maintain and support such sovereignty against every infraction of her most sacred rights."

This resolution passed the House. But it might be proper for him to state some facts and references connected with the case referred to in the resolution, in which a similar attempt had been made to enforce the jurisdiction of the Supreme Court, at the suit of an individual against the State of Georgia.

This was the case of Chisholm, executor of Farquhar, against the State of Georgia. And here he would refer to a section of a bill which passed the House of Representatives of Georgia on the 21st of December, 1793. The section reads:

"And be it further enacted, That any federal marshal, or any other person, levying, or attempting to levy, on the territory of this State, or any part thereof, or on the treasury, or any other property belonging to the said State, or on the property of the Governor or Attorney General, or any of the people thereof, under and by virtue of any execution, or other compulsory process,

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‘issuing out of or by authority of the Supreme Court of the United States, or any other court having jurisdiction under their authority, or which may at any period hereafter, under the constitution of the United States as it now stands, be constituted, for or in behalf of the said beforementioned Alexander Chisholm, executor of Robert Parquhar, or for or in behalf of any other person or persons whatever, for the payment or recovery of any debt, or pretended debt, or claim, against the said State of Georgia, shall be, and he or they attempting to levy, as aforesaid, are hereby declared to be guilty of felony, and shall suffer death, without benefit of clergy, by being hanged.’

This bill also passed the House. Upon any fair interpretation, no one can deny that Massachusetts and Georgia made common cause in resisting the power thus assumed over them by the Supreme Court. It might be an interesting subject of inquiry why they differ so widely in the case of Tassels. But comment was unnecessary.

If, he said, there was so much excitement produced then by the attempt of the Supreme Court to exercise this power over the States, (for the eleventh article of the amendments was not adopted by Congress until the following winter, and doubtless adopted in consequence of that excitement,) why should it be wondered at that Georgia should resist the attempt to exercise the same power, when the jurisdiction of the Supreme Court has been since so much narrowed by the ratification of that amendment? But General Washington was then at the head of the Federal Government—a man not likely to be moved from the discharge of his duty; and yet history does not record (or, if it does, he is ignorant of it) any evidence of his having considered the proceedings of Massachusetts rebellious or traitorous, or treated them accordingly. Nor has the same history dared to cast a shade upon the pure patriotism of John Hancock and Samuel Adams, or branded the name of either with rebel or traitor, in consequence of this transaction. But it has been admitted that there was no power to enforce the citation in the case of Tassels, that citation not operating as a supersedeas of the judgment against him. How idle, then, to accuse Georgia of resisting the authority of the Supreme Court, when the respiting power of her Governor, exercised in favor of the condemned murderer, could alone have given efficacy to the summons of the Chief Justice.

But a sense of self-respect would not permit him, whatever might be his feelings, to make any further comment on the citation, as it regarded the propriety or impropriety of the proceeding on the part of the high functionary by whom it was issued. As it respected the powers now possessed by the Supreme Court, and on other subjects connected with that tribunal, he had well settled opinions, which time and other circumstances might afford him a more proper opportunity to express. He thought that he had shown that in no particular had the State of Georgia gone further in resisting the citation in the case of Tassels, than both she and Massachusetts had done in 1793.

But he had a further reply to offer to some of the remarks of the honorable gentleman on the subject of the Cherokee murderer.

It was well known that, in a case involving the criminal jurisdiction over the country occupied by the Cherokees, as early as the spring of 1830, upon the arraignment at Hall superior court of certain Cherokees for the violation of the laws of Georgia, a plea to the jurisdiction of the court was filed, solemnly argued, and the plea as solemnly overruled by the court.

In the month of September, of the same year, Tassels was arraigned for trial. But what was the course pursued by the court on that occasion? Was the accused denied the benefit of the plea to the jurisdiction of the court, which had been solemnly overruled at the preceding term? No. The plea was permitted to be filed, and, instead of

proceeding to immediate argument, overruling the plea again, and trial of the accused, the judge adjourned the court for several weeks, to allow counsel to be heard before the convention of judges at Milledgeville. The plea was there elaborately re-argued by the counsel for the Indian, and overruled by the unanimous decision of the judges. Does this look like bloodthirstiness on the part of Georgia towards the Cherokee Indians? Most certainly it shows the contrary.

The decision pronounced by the convention of judges had been published in a number of newspapers, how many he could not say; but this he could say, that he had not yet met with any attempt to overturn it in any of the papers which had fallen under his observation. Nor did he believe it could be overturned. That opinion proceeded upon the ground that the Cherokees were not an independent people; and among the arguments presented by it, the court had properly adverted to the course pursued by the Federal Government towards the Indians in support of their position. They showed most conclusively that the commercial power had never been exercised towards them in the most usual manner of exercising it towards “foreign, sovereign, independent nations.” Nor was the difference less striking in all the wars which this Government had carried on against them.

Every one knows that Congress alone has the power to declare war. But can a single declaration of war against an Indian tribe be found upon the statute book?

What does this prove, if it does not prove most incontestibly that, however, in its intercourse with the Indians, the Federal Government has occasionally interfered with the rightful powers of the States, it has never considered the Indian tribes as sovereign and independent States?

He said he might have adverted to various opinions of distinguished men in support of the doctrines he had presented to the consideration of the House, but he preferred relying on constitutional principles to the opinion of any man or set of men whatsoever. There were many points embraced by the remarks of the honorable gentleman from Massachusetts, to which he had not adverted. But, for his part, he did not consider it necessary.

He thought he had sufficiently shown that the jurisdiction claimed by Georgia over the Cherokee Indians was her unalienated and unalienable right; and having that right, as he thought he had sufficiently shown, if, in its exercise, it had been or should be necessary, it was within her constitutional competency to settle her white population on the wild lands in the country inhabited by them.

But let it not be understood that, in any thing he had uttered, he had admitted the right of this Government to interfere with the constitutional right of Georgia to govern the people, and to dispose of the lands within her limits. In the exercise of those rights, he trusted she always would exercise as she had heretofore exercised them, with a just regard to what was due her own character.

In presenting these observations, he hoped he had not overstepped the pledge he had given at the outset. As he had refrained from going into a detailed defence of Georgia against the various accusations of the gentleman from Massachusetts, so he had abstained from an elaborate attempt to defend the present administration of the Federal Government. But it must not be considered that he had declined doing so from any apprehended difficulty of such a task. But he was aware that he should be followed by friends who would more than supply any thing and every thing which he had omitted.

Mr. BELL, of Tennessee, next addressed the House, and stated upon proofs which, as he observed, were satisfactory to him, that the great majority of the Cherokees were in the most squalid and miserable condition; no further advance in civilization, or in the arts of social life, than their ancestors of a century ago. It was not the red men who were benefited under the present system, but

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some twenty or thirty whites who had insinuated themselves into the confidence of the Indians, and who, together with the half-breeds, controlled the whole tribe, and acquired wealth at the expense of those for whose welfare so many philanthropic wishes were expressed in the House. He deplored the revilings and denunciations that had occurred during the discussions of this question, and deprecated the spirit of bigotry in which they had their origin. The people of Georgia would rather suffer military execution than recede from their expressed determination to sustain their laws; and would those who, from party feeling, pressed this measure forward at the awful risk of producing a civil war, persist in a course which, while it encroached upon the honor of the President, and the spirit of the constitution, placed the country upon the brink of an intestine commotion? After some further remarks, Mr. B., who was in a state of exhaustion from the effects of ill health, at the request of his friends, suspended his remarks until the subject should again come up.

TUESDAY, FEBRUARY 22.

#### FOREIGN COINS.

Mr. WHITE, of New York, from the committee appointed on the 23d December "to inquire into the expediency of providing that dollars of the New American Governments, and five franc pieces, shall be a legal tender in the payment of all debts and demands; and, also, whether any additional regulations are necessary to the recoinage of foreign silver coin at the mint," made a long and detailed report, accompanied by a bill regulating the value of foreign silver coins within the United States. The bill and report were committed.

Mr. WHITE, of New York, from the same committee, to which was referred the bill from the Senate concerning the gold coins of the United States, also made a long and detailed report thereon, accompanied with an amendment to the said bill; which report and bill were also committed.

On motion of Mr. BUCHANAN, three thousand additional copies of these reports were directed to be printed for the use of the members of the House.

#### COMMERCE ON THE LAKES.

Mr. CAMBRELENG, from the Committee on Commerce, to which was recommitted the bill to regulate the foreign and coasting trade on the Northern and Northwestern frontier of the United States, reported the same with an amendment, which was concurred in by the House.

Mr. CAMBRELENG, after some explanatory remarks, moved that the bill be ordered to a third reading.

Mr. DAVIS, of Massachusetts, and Mr. HUNTINGTON, as the bill contained a number of complex provisions, desired time to examine it.

The bill was further explained and its expediency advocated by Messrs. CAMBRELENG, HOFFMAN, and SWIFT; when (with the consent of Messrs. DAVIS and HUNTINGTON) it was ordered to be engrossed, and read a third time on Thursday next.

On motion of Mr. CARSON, it was

*Resolved*, That two hundred additional copies of the report of the select committee on the establishment of assay offices in the gold region of the South, be printed for the use of the members of the House.

#### IMPORTERS OF FOREIGN GOODS.

The engrossed bill "for the relief of certain importers of foreign merchandise," was read a third time, and put on its passage.

Mr. HUNTINGTON observed that the bill, in his opinion, required amendment, and suggested, that instead of moving its recommitment, he would submit to the House an amendment to it in the form of a proviso, which, by unanimous consent, he would move should be now received, and incorporated into the bill. Mr. H. then briefly

explained the object of the bill, and of the proviso to it which he proposed, and was as follows:

"*Provided, also*, That no person shall be entitled to the relief authorized to be given by this act, who, by the exercise of reasonable diligence, by himself, or his agents, factors, or correspondents, could have complied with the provisions of the said third section of said act; and the Secretary of the Treasury shall require and receive satisfactory evidence from every person claiming the benefits of this act, that such diligence has been used, and that he has acted *bona fide*, and without any intent to violate or evade the provisions of said third section, before he shall grant the relief herein provided."

The House unanimously consented to the course suggested by Mr. H.; and the bill, with the proviso proposed by Mr. H., was passed, and sent to the Senate for concurrence.

The bill for the relief of the sureties of Amos Edwards was read the third time, and the consideration thereof was postponed until to-morrow.

#### RELIEF OF LAND PURCHASERS.

The House resumed the consideration of the bill from the Senate, supplementary to an act of the 31st March, 1830, for the relief of the purchasers of public lands, and for the suppression of fraudulent practices at the public sales of the lands of the United States.

When this bill was last under consideration, Mr. IRVIN, of Ohio, moved to strike out the second section. This motion again came up for consideration; when

A long debate ensued, in which Messrs. WICKLIFFE, HUNT, TEST, LEWIS, VINTON, McDUFFIE, and GREENNELL, participated. In the course of the debate,

Mr. HUNT moved to amend the said second section; which motion being agreed to,

Mr. IRVIN withdrew his motion to strike out the section.

The amendments were then ordered to be engrossed, and the bill read a third time to-morrow.

#### WESTERN ARMORY.

The House proceeded to the consideration of the bill authorizing the President of the United States to select a site for the erection of an armory on the Western waters.

Mr. CHILTON was very much in favor of an armory on the Western waters, but he could not vote for this bill. It gave too much discretion and patronage to the Executive; and, if the bill were to pass, he had reason to fear that the armory would not be located in the situation where, in his opinion, it ought to be.

Mr. BLAIR, of Tennessee, said that he would support the bill as reported by the Military committee, not because it was what it should have been, but because it was the best that could be had under existing circumstances. Sir, said he, I found this proposition before the House, eight years ago, when I came into Congress, and it has been a subject of controversy ever since. I have, myself, said he, taken such part in this controversy, as perfectly to satisfy my mind that this House will never agree upon its location. I appeal to such members as have been here, and witnessed the progress of this thing—can they believe that another effort would be less fruitless than those which have been witnessed? The alternative now presented is to take this bill, and trust to the discretion of the Executive, or deprive the West of this necessary improvement yet a little longer. I have, said Mr. B., been astonished to hear the objection to this bill, that it conferred patronage on the President. What patronage? That of discharging an irrevocable duty, in the discharge of which he must displease some forty or fifty neighborhoods, in giving preference to one. As a friend to the President, were I to cast about for patronage, and the

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means of seeking popularity, this should be the last expedient with me. I know, said he, the fearless independence of the President, and I am from necessity obliged, in this case, by my vote, to cast upon him that responsibility from which he will not shrink, and this fruitless conflict will be brought to a close; and I could not but be surprised to hear the other day, when this subject was before the House, an opinion expressed as to the inutility of such establishment. Sir, he could forget, in a few short years, the scenes of the last war, and particularly the difficulties in arming the soldiery, would require a herald to notify him of his being mortal. I perceive that the part of the country in which I reside was not singular, and less provided than all others. Such was the melancholy fact there, that, to sustain the cause of the country, and put into the hands of destitute soldiers the implements of war, press gangs were sent abroad to invade the family sanctuary, and by the law of force was the owner deprived of his arms. And now, in these piping times of peace, we are to be told that there is no necessity for such establishment. Sir, I am admonished at this stage of the session, and with the press of business before us, that I cannot better evince my friendship to this measure, than by withholding further debate. I must, however, indulge, before I take my seat, in the liberty of saying that, were I not admonished that it would tend to defeat the measure, I would prefer eliciting from the House some expression of opinion, that necessarily would have its influence on the future location of this armory; I am firmly convinced of the justice and policy of giving to it a location on such Western water as would supersede in future the erection of a Southern armory; the location would throw it on a tributary stream of the Tennessee river, and within the district which I have the honor to represent. Were it now proper to present the considerations for such location, I feel very confident that I could show to this House reasons which must outweigh any others, and, as regarded as any one site, would be sufficient to ensure success, even in this House; but I am very sure they would not be sufficient to convince the House, when some thirty or forty others were brought into competition, and the members interested in each to be judges between them. I must, therefore, insist upon the passage of the bill as a dictate of necessity, and entreat its friends not to destroy it by provoking discussion.

Mr. JOHNSON, of Kentucky, also adverted to the vain attempts of Congress, for sixteen years past, to get the object through in any different mode, and urged the passage of the bill as it was, or all hope of getting an armory might be given up. Congress would never agree on the site.

Mr. VANCE deemed the subject so well understood, that no further argument could promote it; and he entreated all who were friendly to the bill to content themselves with voting, lest delay might do what the opponents of the bill sought to do by argument.

Mr. DENNY argued that Congress was competent to decide on the location of the site, and that there was no necessity for leaving it to the discretion of the President. He adverted to the history of the subject, to show why Congress had not agreed heretofore, and referred to the various surveys made. He was adverse to placing so troublesome and needless a responsibility on the President; and proposed at once to settle the question, as he thought it ought to be settled, by moving to strike out the clause authorizing the President to "select a site for a national armory upon the Western waters, and for that purpose to cause such surveys to be made as he may deem necessary," and insert the following: "A national armory upon the land belonging to the United States near Pittsburg, or upon any other site which he may select in its vicinity; or, if water power shall be preferred, then to select a site for the said armory, at the falls of Big Beaver, in Pennsylvania."

The previous question was then moved by Mr. STANDEFER, and was seconded by a majority of members present.

The previous question was then put, and carried in the affirmative, by which Mr. DENNY's amendment was set aside.

And the main question being put, that is, "Shall the bill be engrossed, and read a third time?" it was carried by yeas and nays, as follows:

YEAS.—Messrs. Anderson, Arnold, Baylor, John Blair, Boon, Brodhead, Buchanan, Cambreleng, Clay, Coleman, Coulter, Craig, Crawford, Creighton, John Davis, Denny, Desha, De Witt, Doddridge, Draper, Drayton, Duncan, Findlay, Finch, Ford, Fry, Gaither, Gilmore, Green, Gurley, Hemphill, Hinds, Hubbard, Hunt, Ihrie, Thomas Irwin, William W. Irvin, Jennings, Richard M. Johnson, Cave Johnson, Kennon, Kincaid, Lea, Leavitt, Lecompte, Leiper, Letcher, Lyon, Martindale, McCreery, McIntire, Mercer, Miller, Muhlenberg, Overton, Pettis, Polk, Ramsey, Sanford, Shields, Semmes, Sill, Smith, Speight, Ambrose Spencer, Standefer, Sterigere, Stephens, Test, John Thomson, Vance, Varnum, Verplanck, Vinton, Whittlesey, C. P. White, Edward D. White, Wilde, Yancey.—79.

NAYS.—Messrs. Alexander, Alston, Angel, Armstrong, Bailey, Barnwell, Barringer, James Blair, Brown, Butman, Cahoon, Campbell, Carson, Chilton, Claiborne, Condict, Conner, Cooper, Crocheron, Crowninshield, Deberry, Dudley, Dwight, Eager, Earll, Ellsworth, George Evans, Horace Everett, Foster, Hall, Halsey, Hawkins, Haynes, Hoffman, Howard, Hughes, Ingersoll, Jarvis, Johns, Kendall, Perkins King, Adam King, Lamar, Lent, Loyall, Lumpkin, Thomas Maxwell, McCoy, Mitchell, Nuckolls, Pierson, Potter, Randolph, Rencher, Roane, Russell, William B. Shepard, Augustine H. Shepperd, Richard Spencer, Sprigg, H. R. Storrs, W. L. Storrs, Swann, Taylor, Tracy, Tucker, Wayne, Wickliffe, Williams, Wilson.—70.

#### INSOLVENT DEBTORS.

The House then took up the bill for the relief of certain insolvent debtors of the United States.

Mr. BUCHANAN said, that when the House some days since, upon his motion, had kindly consented to take this bill up out of its order, he had then declared he should occupy but a very short time in its discussion. He said he would now redeem that pledge; and as time had become still more precious, and the close of the session was so near at hand, he would content himself with a very brief exposition of the nature of the bill. Should any gentleman, however, desire a further explanation upon any point, he would hold himself ready to give it.

This bill, said Mr. B., contains but a single principle. It merely enables the Secretary of the Treasury to compromise with such debtors of the United States as were insolvent on the 1st day of January last, and confers upon him the same power of releasing those debtors which every individual possesses. All such debtors of the United States are embraced within the provisions of this bill; except the principals in official bonds, and those who have actually received public money, and not paid it over, or accounted for it according to law.

At present, the Executive Government of the United States possesses no power, in any case, no matter what may be the circumstances, to compromise with its debtors, and accept a part of the demand instead of the whole. The man who has become insolvent, should he be a debtor of the United States in a sum which he is unable to pay, is, under existing laws, placed in a state of helplessness and hopeless despair. His individual creditors, convinced of his honesty, may be willing to release him; his friends may be willing to furnish him the means of recommencing business; but this is all in vain, whilst the debt due

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the United States hangs like a millstone around his neck. From this there is no escape. Justice, relentless justice, untempered by mercy, is now our only rule of conduct towards our insolvent debtors.

Even if our policy were purely selfish, and we acted from no higher motives than a regard for dollars and cents, we ought to pass this bill. From the examinations which I have made, and the information I have collected upon this subject, I entertain no doubt but that this bill, should it become a law, will bring at least one million of dollars into your treasury, not one cent of which can ever find its way there unless some measure of this nature shall be adopted. There are now in this country many, very many, honest and enterprising merchants, who, although they have become insolvent, retain the highest character among their friends, and in the society of which they are members. In a great number of instances their insolvency cannot be attributed even to negligence or want of skill, but has been wholly the effect of causes which they could neither foresee nor control. Some instances of this character have come to my knowledge, which would be well calculated to enlist the feelings of this House in favor of the bill. There is now an insolvent merchant in the city of Philadelphia, whom this bill would relieve, who has paid into the Treasury of the United States between three and four millions of dollars in duties. His insolvency was, in a great degree, I think I might say solely, occasioned by the passage of a bill through the Senate, in 1826, to reduce the duties on tea. The reputation of this gentleman, both as a man and as a merchant, stands as high as it ever did in his most prosperous days; and should the power be conferred on the Secretary of the Treasury to compromise with him for the debt which he owes the Government, his friends will immediately furnish him the means of recommencing business. He will have no difficulty in compromising with his individual creditors. This is but one instance out of many of a similar character, which have come to my knowledge.

Suffer me to advert to another case by way of illustration. A merchant in the city of New York has become insolvent. He is indebted to the Government in a very large sum of money, one dollar of which he is not able to pay. The father of this merchant, anxious to obtain a release for his son, and enable him again to go into business, has actually offered to transfer to the United States property estimated to be worth between four and five hundred thousand dollars, provided his son shall be discharged from the debt. This offer could not be accepted by the President for want of power; and thus the United States, should this bill be negatived, will lose, in a single case, nearly half a million of dollars.

There are many similar cases in which the friends and the relatives of insolvent debtors will come forward and enable them to pay the Government a part of its debt, in consideration of obtaining a release for the whole. Mr. B. said he expressed his own opinion merely when he stated that the passage of the bill would bring at least a million of dollars into the treasury: there were others, with better means of judging than himself, who believed the sum would greatly exceed that amount.

But, sir, said Mr. B., much higher motives than those of a pecuniary character enter into the consideration of this question. There are many honest and enterprising men in this country, having families dependent upon their exertions, who will be left utterly without hope, should this measure be defeated. All their creditors, except ourselves, are willing to compromise with them. Shall we then continue to be inexorable?—shall we alone have no mercy, even although mercy be our best policy?—shall we, merely for the sake of oppressing our debtors, deprive ourselves of more than a million of dollars?

By the passage of this bill you will restore many of our best citizens to usefulness. Men who have long been

prostrated in the dust by the weight of debts which has been continually pressing upon them, will again spring into fresh and vigorous action the moment this pressure is removed. Hundreds and thousands are now looking anxiously towards you for relief, and regard the adoption of this measure as their only remaining hope on this side of the grave. Why will you not afford these men relief? Why will you not suffer them by their enterprise and industry to add to the wealth and prosperity of the country, when you can grant them this boon, not only without injury, but with positive benefit to your treasury? But I must be brief, and will pursue this branch of the subject no further.

This bill is entirely retrospective in its nature, and can have no effect upon future cases of insolvency. Its relief will, in almost every case, be confined to men who are now notoriously insolvent. There is, therefore, much less danger of fraud upon the Government, than if it applied to future cases. But this consideration has not prevented the Judiciary committee from guarding the bill with the utmost care, and rendering it impossible, so far as they could, that a fraudulent debtor should take advantage of its provisions. In the performance of this task, they have been much assisted by the suggestions of the Secretary of the Treasury, and, Mr. B. said, he would venture to assert, there was greater danger that the bill instead of being too lax was too rigorous in its provisions. He said he would not, at present, remark upon any of its details.

Mr. WILLIAMS briefly submitted his objections to the bill. It was to a certain extent a bankrupt bill, and moreover placed too great a power in the hands of the Treasury Department. He was in favor of referring the cases in the first instance to judicial investigation.

Mr. JOHNSON, of Kentucky, made a few earnest remarks in support of the bill.

Mr. WAYNE combatted the objections of Mr. WILLIAMS, in an argument of some length, and urged with zeal the policy of the bill.

Mr. HUNTINGTON said, that after the full explanation which had been given of the details of the bill, and of the reasons evincing the propriety of its passage, by the chairman of the committee who reported it, [Mr. BUCHANAN,] he would not consume the time of the House in repeating arguments which had been urged with so much ability. He had risen principally to reply to an objection which had been made to the bill by his friend from North Carolina, [Mr. WILLIAMS.] Before, however, adverting to this objection, he would, in relation to the general merits of the measure under consideration, remark, that he considered the passage of the bill would be the performance of an act equitably, if not in justice, due to the public debtors embraced by its provisions, while, at the same time, it would be instrumental in causing a portion of the debts now due the United States, to be paid, which would otherwise be lost to the Government. This would be obvious, when the House should consider, as it would, that many of the public debtors, both principals and sureties, by misfortune, and from causes not within their control, have become entirely insolvent; that they sustain irreproachable characters for integrity and industry; and that while pressed with the weight of their obligations to the Government, and without the means of removing it, they are alike without the ability and the motive necessary to enable or induce them again to commence business. So long as an authority to compromise with them is withheld; so long as their persons are subjected to imprisonment, and they held responsible for the debts until they shall have paid them in full, and this, too, when they have not the means of discharging any part of them—the industry, labor, and enterprise of this valuable class of our citizens are lost to the country. From this situation, so distressing to the debtors, without



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any corresponding benefit to the Government, this bill relieves them. It enables them to obtain the assistance of friends, through whose kindness and generosity they can make offers of compromise, pay their debts in part, and be discharged from the residue; and thus, while the treasury is benefited, the individual debtors are enabled once more to engage in the business of the world, free from the pressure of debt, and stimulated to active exertion by the consciousness that the fruits of their industry will be their own. The bill has been drawn up with great care, to secure the Government against attempted fraud; and if it be obnoxious to any objection, it arises perhaps from what might be thought to be the severity of some of its provisions upon the debtors. If, however, it be carried into execution in the spirit of its various enactments, as it no doubt will be, a highly meritorious class of our citizens will be raised from a state, now of hopeless depression, to one offering inducements to renewed exertions in useful employments; and a portion of the claims against them, which are now of no value, by reason of the poverty of the debtors, will be paid by the liberality of their friends. Thus much, Mr. H. observed, he was unwilling to omit saying, in regard to the beneficial consequences which would result, both to the debtors and to the United States, should the bill become a law.

The gentleman from North Carolina [Mr. WILLIAMS] had urged, as an objection to the bill, (if he understood him correctly,) that the power proposed to be vested in the Secretary of the Treasury should be given to the courts of the United States; and that the facts to be proved, on which alone relief is to be granted, should be ascertained through the intervention of a court and jury. In answer to this objection, Mr. H. said that it was difficult to see why all the necessary facts could not be ascertained by the commissioners to be appointed in the manner provided by the bill, with as much security to the Government against fraud, as by any other tribunal. They would be equally competent, vigilant, and trustworthy. Their proceedings will be public, and their means of detecting fraud as ample as can be devised; and the House would perceive that the power to afford the relief authorized by the bill to be given, could not be vested in any court, for the Secretary of the Treasury is authorized to compromise the debts of the applicants, on such terms as, under all the circumstances attending each particular case, he may deem equitable to the debtor and just to the Government. Neither a court of law nor of equity could execute such a discretionary power. It must be vested in some executive officer, and in no one with as much propriety as in the officer at the head of the Treasury Department. Mr. H. said he would conclude by expressing the hope that a bill which had in view the twofold object of awarding both justice and equity to an unfortunate and meritorious class of public debtors, and of enabling the Government to realize a portion of debts due to it, now wholly uncollectable, would receive the support of every member of the House.

Mr. STORRS, of New York, also replied to Mr. WILLIAMS, and advocated the bill.

Mr. SEMMES moved to limit the operation of the bill to two years; but, at the suggestion of Mr. ELLSWORTH, who doubted whether all the cases would be closed within that time, the motion was varied to three years, and thus was agreed to.

An appropriation of \$3,000, to defray the expenses of the act, was inserted, on motion of Mr. BUCHANAN; and

The bill was ordered to be engrossed for a third reading.

#### MR. RHIND'S ARABIAN HORSES.

The following message was received from the President of the United States:

#### *To the Congress of the United States:*

I submit herewith to Congress a letter from Mr. Rhind, stating the circumstances under which he received the four Arabian horses that were brought by him to the United States from Turkey. This letter will enable Congress to decide what ought to be done with them.

ANDREW JACKSON.

The following is a copy of Mr. Rhind's letter.

WASHINGTON, Dec. 10, 1830.

SIR: I think it proper to state the circumstances under which I became possessed of the Arabian horses landed from the vessel in which I reached the United States from Turkey.

Finding, during my residence at Constantinople, that our Turkish friends were far behind us in many improvements, I suggested to the ministers several which were of great use to them; and, after closing the business of the negotiation, much of my time was occupied in giving them draughts, schemes, and elucidations. The Sultan, I understood, took great interest in these suggestions, and many inquiries were made of me, by his request, to all of which I afforded the best explanation in my power.

It being customary at that court for the person who negotiates a treaty to remain there until the ratifications are exchanged, or, by express assent of the Porte, to leave a person in his place, I was, therefore, under the necessity of appointing Mr. Narvoni to that station, and presented him in that capacity to the Reis Effendi.

I shortly thereafter took final leave of the Turkish ministers.

Finding that no vessel would leave Turkey for the United States prior to the 1st of September, I determined, instead of remaining idle at Constantinople, to proceed to Odessa, a voyage of three days, and make the necessary arrangements there for the reception of our vessels; having accomplished this, I returned to Constantinople on my way to Smyrna, where I was to embark.

On reaching the capital, I had several interviews and communications with my former Turkish friends, and suggested other improvements in their system, very gratifying to them.

Being informed by the Reis Effendi that permission would be granted me to export one or more Arabian horses, and conceiving that, whilst it would be a personal object to myself, it would also be a benefit to our country, if I succeeded in conveying one to the United States, I visited the studs of many of the nobility, in order to select some, and was on the eve of closing for the purchase of two, when, the circumstance coming to the knowledge of the Sultan, he, on the 31st of August, directed four horses to be sent me in his name. Although this was evidently not intended as a present to me in my official capacity, since the ministers were aware I could not accept them as such, still the gift was one that could not be returned without giving offence. Being well informed that to refuse them would be considered an insult to the Sultan, and would doubtless be attended with injury to the interests of the United States, Mr. Narvoni, as well as others, assured me that I must take them away from Constantinople, if I should cut their throats and throw them overboard the next day. I was consequently obliged to take them, and relinquish the purchase of those I had selected. I immediately had the four horses appraised, by competent judges, on the spot, and took them with me to Smyrna.

Having no funds of the United States, or the means of raising them, to pay for their expenses and passage to America, I shipped them as a commercial adventure, in the name of, and for account of, the owners of the vessel in which they came, and from whom I had secured an individual credit on London previous to leaving the United States. The horses are consequently in their pos-

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session; but, if the United States have a claim for their value, I presume those gentlemen will pay it over, should they sell for more than the expenses attending them, which, of course, are very considerable.

So far as regards myself, I am ready to transfer to the United States any right, title, or interest I may have in them, should it be required.

With great respect, I have the honor to be your obedient servant,  
CHAS. RHIND.

To the PRESIDENT of the U. S.

The subject was referred to the Committee on Foreign Affairs.

The House then adjourned.

WEDNESDAY, FEBRUARY 23.

OHIO RIVER.

Mr. LETCHER, from the Committee on Internal Improvements, to which was referred the memorials from inhabitants of the States of Ohio, Kentucky, and Missouri, praying for an appropriation for such an improvement of the Ohio river as will render the same navigable, at all seasons, as high up as Pittsburg, for small steamboats, made a favorable report; which was read, and laid on the table.

#### THE JUDICIARY.

The resolution then came up proposing to print 6,000 additional copies of the judiciary reports.

Mr. FOSTER resumed his remarks, and occupied the small residue of the hour. That having expired, he stated that he should conclude, in fifteen minutes more, all that he had to say on the subject, if the House would indulge him; but the House refused to suspend the rule.

#### WESTERN ARMORY.

The engrossed bill for the erection of a national armory on the Western waters was read the third time; and being on its passage,

Mr. LEA moved to commit the bill to the Committee on Military Affairs, with instructions to amend the same so as that the armory should be located "as near the southeastern part of the Union as an eligible site can be had."

Mr. LEA rose, and said he could not consent for this bill to be put on its final passage in this House without yet making an effort to remedy its imperfections. The pressure of amendments, and the previous question, yesterday, cut off the opportunity for such a proposition; and, Mr. L. said, he voted for the bill then, not so much because he approved of its present form, as from the hope of having another opportunity of improving it. As the bill now stands, the President would have a range of discretion in selecting a site for this contemplated armory on the Western waters, almost from the Northern lakes to the Gulf of Mexico. To delegate such a discretion to the Executive is derogatory of ourselves, a dereliction of our own duty, an abandonment of our own business, and transferring it to the hands of another. If this power, in the hands of the President, would be patronage, he ought not to have it—if responsibility, it should not be thrown from ourselves on him. In both respects, the transfer would be unjust and unwise. When such a principle is involved, we are not to inquire what particular individual fills the Executive chair, and sacrifice that principle to personal confidence, or, perhaps, to the hope of some very contingent local advantage. Mr. L. supposed that no one would consider him as objecting from want of confidence in the present Executive, who might be regarded as eminently qualified for such a business. No! he was not disposed to transfer such a power to any man, at any time, unless some great emergency should seem to require it; and more especially would he avoid it in the present conjuncture. But what can be the necessity for such a course

at any time? We all admit the propriety of supplying the country with arms, and that an armory on the Western waters would greatly conduce to that desirable result, and a majority, no doubt, are in favor of the abstract proposition, that it is proper to have some such establishment. What, then, is the difficulty? Why, forsooth, that there are so many sites for this establishment, that all the wisdom of Congress cannot make a selection of any particular one; and we are gravely told that we must delegate authority to the President because we cannot agree among ourselves. Here is a practical lesson, which ought to be well studied by the people of this country. If many armories were required, no doubt we could get them all through by some means; but one only is much more difficult to establish than many. And is this confession to be thus made public by a Congress which professes a perfect capacity for adjusting all the difficulties in the great business of internal improvement? How to discriminate between what is or is not national? How to apply a just scale of preference in selecting objects? and then [in the practical locations among various contending routes? Our knowledge of the various interests and topography of the whole country is so perfect, that we know how to regulate even the roads and canals all over it; but we are utterly unable to indicate in which end of the Union we desire a national armory. It must be on "the Western waters," somewhere between the Northern lakes and the Southern gulf.

Mr. L. said it might not be expected of Congress to designate the precise spot for the armory, but certainly we ought to be able to tell in what quarter of the Union we desire to have it. There are two already: one in the North, at Springfield, Massachusetts, the other near the centre, at Harper's ferry; and cannot we determine on the propriety of placing the third as far towards the other end of the Union as it can be conveniently located? Or must we leave it to Executive direction, of which we can speak only with uncertainty, but which might place it far north on the Western waters, for example, at Pittsburg, which seems disposed to arrogate superior pretensions on this subject, and thus give three armories in one end of the Union, and leave the other entirely destitute?

Mr. L. said he did not expect the co-operation of those representing rival positions of the West, for his experience had taught him how futile it was, in general, to expect liberality, or even justice, against such local, interested influences. He did not pretend himself to be entirely exempted from them; and, although no site in his district might be competing for this armory, yet his constituents, and the neighboring country, did not doubt that public policy required the location in that quarter somewhere. And considering it as, perhaps, the only work for public defence which they could hope to have located among them, they took a lively interest in the subject, and their pretensions were such as to justify pressing them earnestly and confidently on the consideration of Congress. Mr. L. said his brethren of the West could not suppose that he took any pleasure in this collision. It seemed to be the unavoidable consequence of local interests, and those who are free from such influences ought to make an impartial decision. He called on gentlemen from every quarter having no local interest in the matter, to settle the difference among those who have, with enlarged views and liberal principles.

Mr. L. said he did not intend to discuss the comparative advantages of any of the particular sites in question. He did not expect Congress to do more than to circumscribe the range of selection within reasonable bounds. His proposition was one of practical character, avoiding the inconveniences of being either too general or too particular. He would support it by a few prominent considerations, which he conceived to be perfectly unanswerable.

FEB. 24, 1831.]

District Affairs.—Public Documents.

[H. OF R.]

If equality of distribution be desirable, let gentlemen look on a map of the United States with a view to this object, and see where our two armories are now located, and they cannot fail to perceive the evident propriety of locating the third one as now proposed, which would be on some branch of the Tennessee river.

By thus locating it, both the South and the West would be better accommodated than either could from any other location; and one such armory would answer both these parts of the Union better than two situated any where else. This statement may appear bold in the estimation of those who have not examined the subject, but investigation will show its literal correctness. As to the South, in the first place, from Virginia to Louisiana, the streams hasten from the high lands to the Atlantic or the Gulf, affording but little community of inland navigation among any of the States; but it is remarkable that the waters of the Tennessee, on the other side of the high lands, in making a course corresponding, in some degree, to the coast, are almost united with all the principal rivers of the South, and affording a ready facility, to be continually improved, of throwing arms into all the South. Moreover, the price of making arms on the Tennessee waters would be less than in the South, by more than the difference of transportation. Gentlemen of the South are sensible of these things, and are understood to acquiesce in the proposition before us, being without any expectation of an armory among themselves. But, in supplying the South, the Tennessee must stand without any rival in the West, inasmuch as it completely intervenes between the South and any other Western stream. Other advantages for the Southern supply will appear in favor of the Tennessee, while examining its superiority for supplying the West, which now comes in order.

On all the Western waters, there is no great difference in the prices of labor and of provisions. The Tennessee country is nowhere surpassed, if anywhere equalled, in variety and extent of water power. It abounds in minerals of many kinds, but especially in iron ore, from which iron is now sold cheaper, perhaps, than in any other part of the Union. Stone coal is found in different places, but has not yet been much used, on account of the abundance of other fuel. Pittsburg is, in part, supplied with iron from some parts of the State of Tennessee, and not those where iron is cheapest—a fact of itself conclusive as to the principal items of the calculation. How stands the comparison as to navigation? The Tennessee unites with the Ohio, not far above the mouth of the latter. If it be desirable to have arms on the Ohio, either to be retained there, or to be sent to any other part of the Mississippi waters, they can be taken down the Tennessee into the Ohio, at all seasons of the year. The navigation of the Tennessee will no doubt be greatly improved; yet there may always be difficulty, at some seasons, in ascending the river, and thus approaching the Southern States; but the downward navigation may always be relied on, in case of emergency, even at lowest water. One other circumstance, if other things were equal, ought to be conclusive. The Tennessee is so far south as not to be obstructed by ice, like the Ohio and more Northern rivers. At critical periods, the lower Mississippi, and also the Southeast, might be supplied with arms from the Tennessee river, while the upper Ohio would be locked in ice. Add to these considerations, that an armory on the Tennessee waters would have perfect security from any public enemy, and would be situated most conveniently for that population which must always be relied on to aid in defending the Southern Atlantic and Gulf frontier.

Mr. L. said he would not consume time by presenting other considerations, or by enlarging on these. But he would again call on the disinterested portions of the House to settle this controversy, when they have the opportunity of doing so, in a spirit of equality and justice, and so as

to promote economy, by making one armory answer the purposes of two, and, by that means, also, accommodating two portions of the Union, instead of one, and each of them better than by any other locations.

Let us, at the same time, show that we have some capacity for transacting our own business, and not confess an incapacity, and transfer our powers to another.

Mr. WICKLIFFE moved to amend Mr. LEA's motion, by striking out the location there proposed, and inserting "to submit to this House the place which he (the President) may select, for the final ratification of Congress."

Mr. JOHNSON, of Kentucky, replied to Mr. LEA; and several others rising to speak,

Mr. VANCE observed that he would have been willing for the bill to pass, though, in its present shape, he was rather indifferent about it. He did not, however, think it of sufficient importance to consume the remainder of the session, to the exclusion of all other business; and he, therefore, moved that it be laid on the table.

The motion prevailed, and the bill was ordered to lie on the table, (tantamount to rejection,) yeas 98, nays 56.

Mr. SPENCER, of New York, then moved to suspend the rule, for the purpose of enabling him to move to take up the bill respecting the silk culture; but the motion requiring two-thirds, was lost.

#### DISTRICT AFFAIRS.

The House proceeded to consider the bill to provide for the appointment of commissioners to digest, prepare, and report to Congress, at the next session thereof, a code of statute laws, civil and criminal, for the District of Columbia.

Some debate arose on the expediency of this bill, in which it was opposed by Messrs. WILLIAMS and BUCHANAN, and was advocated by Messrs. MERCER and DODDRIDGE; and, after an unsuccessful motion to lay it on the table,

The bill was ordered to be engrossed for a third reading—76 to 72.

THURSDAY, FEBRUARY 24.

#### PUBLIC DOCUMENTS.

Mr. EVERETT, of Massachusetts, from the Committee on the Library, reported a bill making provision for a subscription to a compilation of congressional documents, [from the commencement of the Government to the burning of the capitol, in 1814—proposed to be compiled and printed by Gales & Seaton;] which being twice read,

Mr. EVERETT, referring to the expediency, indeed, necessity of the work, moved that it be ordered to be engrossed for a third reading.

Mr. LEA moved to commit the bill to a Committee of the Whole House.

Mr. EVERETT opposed the motion, as commitment, at this stage of the session, would be tantamount to a rejection of the bill.

The motion was negatived—61 to 74.

Mr. WICKLIFFE and Mr. HOFFMAN made some remarks in opposition to the bill.

Mr. LEA then moved that the bill be laid on the table.

On this question the yeas and nays were taken, and being 86 to 86, the SPEAKER voted in the affirmative, and the bill was laid on the table.

#### DISTRICT OF COLUMBIA.

The engrossed bill to provide for the appointment of commissioners to prepare a code of laws for the District of Columbia, was read the third time, and the question on its passage was taken by yeas and nays, and being yeas 76, nays 96, the bill was rejected.

H. of R.]

Internal Improvements.

[FEB. 24, 1831.]

## INTERNAL IMPROVEMENTS.

The House proceeded to the consideration of the bill making appropriations for carrying on certain roads and works of internal improvement, and providing for surveys.

Some debate arose on an objection by Mr. CARSON to the appropriation of five thousand dollars for a military road in the State of Maine—in which Mr. C. opposed it, and Messrs. VERPLANCK and ANDERSON supported it; and the appropriation was finally agreed to.

Mr. PETTIS moved to amend the item for improving the Ohio and Missouri rivers, by inserting "Missouri," and adding at the end,

"And the President of the United States is hereby authorized to cause to be expended a part of the said sum of fifty thousand dollars in removing obstructions to the navigation of the Missouri river, within the limits of the State of Missouri, in the same manner as is provided in the second section of the act of 24th May, 1824, for improving the navigation of the Ohio and Mississippi, if it be ascertained that the obstructions to the navigation of the Missouri are of equal or greater importance than those remaining to be removed from the Ohio and Mississippi rivers." Mr. P. earnestly supported his amendment, but it was negatived.

On the item of fifty thousand dollars for the improvement of the navigation of the Ohio and Mississippi rivers, a long debate took place. It was opposed by Mr. ARCHER at some length, on principle, as well as on the inexpediency and inutility of the particular appropriation. From the nature of the river, the obstructions could not be permanently removed, and he wished to know how long these appropriations would be necessary. The appropriation was advocated by Mr. WICKLIFFE and Mr. CROCKETT—by the latter gentleman repeatedly; and Messrs. VERPLANCK and GILMORE participated in the defence of the item. It was eventually agreed to.

On the item of one hundred and fifty thousand dollars for the improvement of the Ohio coming up for concurrence,

Mr. LEA objected to the bill on the ground of its comprising so many heterogeneous objects; and moved to recommit the bill, for the purpose of having the analogous appropriations classed in separate bills. He said it was difficult to say what committee should be selected to make this assortment. Sir, said he, this dish is a sort of French cookery, which requires almost a chemical process to distinguish the original elements of which it is composed. Where did it come from? Originally from the Committee of Ways and Means; but some ingredients have been added to it since. And what is it now? A mixture of more variety, probably, for the aggregate amount of it, than was ever before presented to this House—not a variety of items so much as of principle. One class consists of improvements in territories, about which there is not much, but some, diversity of opinion. Another class exhibits what is called a military road in the State of Maine, having a different division of advocates and opponents. A third class consists of a general appropriation for surveys of national character, involving all that farrago of political metaphysics with which we are accosted at every turn, which every body professes to understand, and nobody can explain; which answers certain purposes in theory, but vanishes in practice. A fourth class seeks the improvement of the Mississippi and Ohio rivers, by removing what are called "partial and temporary impediments" to navigation; and this is to be done under an alleged distinction between improvements for foreign commerce and other internal improvements; and thus the constitution would seem to be stamped on a sheet of elastic gum, to be extended as circumstances may require. But I am yet at a loss to know how far it may be extended, or of what magnitude may be the objects of this power; de-

minimis, before they shall rise into importance enough to belong to that other grade of nationality. This can clear away small obstructions, sand bars, and anti-national snags; that can remove mountains. The fifth and last class is an example of our highest potency, and goes for a thorough improvement of the Ohio river as far up as Pittsburg.

Mr. Speaker, can you tell me what committee is most entitled to this bill? That of Ways and Means, it seems to me, is among the last that ought to have anything to do with it. What have we? Territorial works; military road; national surveys; commercial obstructions; great national improvements! Sir, I move that it go to the Committee on Internal Improvements, with instructions to report separate bills for these various classes of objects. How are we to vote on this compound? It is unjust to compel members to do so. No two of these classes, submitted separately, could get the same vote in this House. It is not the case of many items, all resting on the same principle; and even there it is wrong to have an extensive combination; but all these classes depend on different principles, in the estimation of some gentlemen here; and must they swallow poison, or not eat at all?

Mr. Speaker, these combinations are unfavorable to the correctness and the purity of our Legislature. Human frailty ought not to be thus tempted to do what is wrong, rather than forego some particular advantage. I speak on acknowledged principles; and, taking to myself what I impute to others, I repeat the idea, that the practice of such combinations is alarmingly dangerous to the purity of our actions here. Who willingly trusts himself in such a case, forfeits, in some degree, the confidence of others.

On this motion, and the item of one hundred and fifty thousand dollars, considerable debate ensued, in which Messrs. LEA, ARCHER, VERPLANCK, CARSON, and SUTHERLAND joined.

Mr. CROCKETT said he was opposed to the motion to recommit, for several reasons. First, the object of the motion was to destroy the passage of the bill. It was late in the session, and, if recommitted, the bill could not be acted upon at the present session.

We expected to hear the doctrines advanced by that gentleman; we heard his sentiments a year ago upon the principle. For his own part, Mr. C. said, he had always supported the system of internal improvements, and, as he expected to be consistent, he should continue to support that system upon principle, at least until he was better informed than at present. Although, said Mr. C., our great man, at the head of the nation, has changed his course, I will not change mine. I would rather be politically dead than hypocritically immortalized. The more I become acquainted with the great value of the improvements in question, the more I am satisfied of their utility in a national point of view. I presume the improvement of the Ohio and Mississippi rivers is as much a work of national importance as any improvement in the country. At the commencement of that work it may have been slighted by the managers, but I am persuaded that no man acquainted with the mode now pursued can doubt the expediency of continuing it.

The gentleman from Virginia asks how long this appropriation is to be continued? I answer, as long as the Mississippi runs. What is money compared with the lives of the people engaged upon that river; or the appropriation compared with the amount of property which floats upon it? Sir, the produce of thirteen States finds its market by means of these rivers.

Those State rights gentlemen who are opposed to appropriations by the General Government for purposes of internal improvement, may think that the navigation of those rivers ought to be improved by the States. I should like to know what State is to take charge of the Mississippi, and to clear the obstructions of that river. Sir, I do hope the question will be taken, that we shall adopt the

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*The Judiciary.—Public Documents.—Indian Treaties.*

[H. OF R.]

amendment of the gentleman from Kentucky, and pass the bill.

My colleague [Mr. POLK] says he hopes the appropriation for the surveys will be stricken out—I hope it will not. He says he has been a supporter of the present administration, and that he still supports it. I was also a supporter of this administration after it came into power, and until the Chief Magistrate changed the principles which he professed before his election. When he quitted those principles, I quit him. I am yet a Jackson man in principles, but not in name. The name is nothing. I support those principles, but not men. I shall insist upon it that I am still a Jackson man, but General Jackson is not; he has become a Van Buren man. I hope the motion to recommit will not prevail.

The motion to recommit was lost—yeas 62, nays 107.

Mr. POLK then moved to strike out the appropriation of twenty-five thousand dollars for surveys, and argued at some length against the appropriation. Mr. BUCHANAN and Mr. CROCKETT advocated the appropriation, and the question being taken on striking it out, it was negatived by the following vote:

YEAS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Archer, Barnwell, James Blair, Bockee, Bouldin, Brodhead, Cambreleng, Campbell, Carson, Chandler, Claiborne, Clay, Coke, Conner, Craig, Crocheron, Davenport, Desha, De Witt, Draper, Drayton, Earll, Findlay, Foster, Fry, Gaither, Gordon, Hall, Halsey, Holland, Hoffman, Cave Johnson, Perkins King, Lea, Lent, Lewis, Loyall, Lumpkin, Magee, Thos. Maxwell, McCoy, McIntire, Nuckolls, Patton, Pettis, Polk, Potter, Rencher, Roane, Sanford, Aug. H. Shepperd, Shields, Speight, Taliaferro, Wiley Thompson, Trezvant, Tucker, Camp. P. White, Wickliffe, Wilde, Williams.—66.

NAYS.—Messrs. Armstrong, Arnold, Bartley, Bates, Baylor, Beekman, John Blair, Boon, Brown, Buchanan, Burges, Butman, Cahoon, Childs, Chilton, Clark, Coleman, Condict, Cooper, Coulter, Cowles, Crane, Crawford, Crockett, Creighton, Crowninshield, John Davis, Deberry, Denny, Doddridge, Dudley, Duncan, Eager, Ellsworth, George Evans, Joshua Evans, Horace Everett, Finch, Ford, Forward, Gilmore, Grennell, Gurley, Hawkins, Hemphill, Hodges, Howard, Hughes, Hunt, Huntington, Ihrie, Thomas Irwin, William W. Irvin, Isaacks, Johns, Richard M. Johnson, Kendall, Kennon, Kincaid, Leavitt, Lecompte, Letcher, Lyon, Martindale, Lewis Maxwell, McCreery, McDuffie, Mercer, Miller, Mitchell, Mühlenberg, Pearce, Pierson, Ramsey, Randolph, Reed, Richardson, Rose, Russel, Scott, William B. Shepard, Sill, Smith, Ambrose Spencer, Richard Spencer, Sprigg, Stanbery, Standefer, Sterigere, Henry R. Storrs, William L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, John Thomson, Tracy, Vance, Varnum, Verplanck, Vinton, Washington, Whittlesey, Edward D. White, Wilson, Yancey, Young.—109.

The bill was then ordered to be engrossed for a third reading; and

The House adjourned.

FRIDAY, FEBRUARY 25.

#### THE JUDICIARY.

The House took up the resolution of Mr. C. P. WHITE, proposing to print six thousand additional copies of the reports *pro* and *con* of the Judiciary committee, on the propriety of repealing the twenty-fifth section of the judiciary act of 1789.

Mr. FOSTER resumed the floor in favor of the repeal, and spoke half an hour in conclusion of his remarks; when

Mr. EVANS, of Maine, rose, and observed that it could now no longer be said that those who coincided with the report of the majority of the committee, had not had full opportunity for discussing the question and advocating

their views. He would, therefore, now move the previous question; which being seconded,

Mr. PETTIS asked for the yeas and nays; but they were refused.

Mr. STERIGERE moved that the resolution lie on the table. Negatived.

The previous question was then carried, and the question being put on the adoption of the resolution, it was decided in the affirmative—yeas 140, nays 32.

#### PUBLIC DOCUMENTS.

On motion of Mr. EVERETT, of Mass., the rule was suspended, (two-thirds concurring,) for the purpose of taking up the bill laid on the table yesterday, to authorize a subscription to Gales and Seaton's compilation of the documents of Congress prior to the burning of the capitol; and the bill was then taken up—94 to 76.

Mr. WICKLIFFE opposed the bill, and Mr. CHILTON advocated it.

Mr. CONDUCT then moved the previous question, and the motion was seconded, and carried by yeas and nays—87 to 82.

Mr. SPEIGHT moved a call of the House, but the motion was negatived.

The question was then put on engrossing the bill for a third reading, and carried by yeas and nays—93 to 92.

#### INDIAN TREATIES.

The House then went into committee, Mr. Polk in the chair, on sundry appropriation bills. The first taken up was the bill for carrying into effect certain Indian treaties.

Mr. McDUFFIE moved to insert an appropriation of eighty thousand dollars for carrying into effect the Choctaw treaty recently ratified by the Senate. He moved the amendment by direction of the Committee of Ways and Means, and not because he felt any necessity for it himself.

Mr. BATES, of Massachusetts, said he regretted not to see the chairman of the Committee on Indian Affairs in his place. In this dark sea he thought the House had a right to know from the pilot by what course, or what star, it was sailing. If the Indians are the citizens of the States, and subject to the jurisdiction of the States, as contended for, he would thank any disciple of the school of strict construction, or of any other, to show the authority of this Government to purchase their land, to remove or educate them as proposed. Mr. B. said some of his constituents wished to sell their lands, and would be very thankful if the Government would buy them out and aid in their removal. If the Indians are in fact independent nations or tribes, as he supposed they were, then no difficulty appears in the case; but if they are citizens of the States, and subject to the jurisdiction of the States, he saw no power in the Government to interfere. The policy seems to be, to consider them as independent for all purposes beneficial to us, and as citizens for all purposes prejudicial to them. He hoped some one of the committee would favor the House with their views upon this obscure subject, that its course might be uniform.

Mr. LUMPKIN said that he did not intend at that late hour (being 10 o'clock P. M.) to make an Indian speech. No, sir, said Mr. L., I have more respect for myself, and for the House, than to consume a moment of time, that may not be demanded in reply to the gentleman who had preceded him in this debate.

The chairman of the Committee of Ways and Means, who proposed this amendment, had informed the House that the sum specified was necessary to meet the stipulations contained in the Choctaw treaty.

We, said Mr. L., not only have the gentleman's word for it, but the President of the United States has sent the treaty itself to the House, that every gentleman may examine it for himself; and he who will take the trouble to do so, will not only find that the gross sum of eighty thou-



H. OF R.]

*Indian Treaties.*

[FEB. 25, 1831.]

sand dollars is required, but he will see the guardian care of true friendship manifested to these sons of the forest, in the various items which make that gross amount.

He will see provisions made for schools, churches, the mechanic arts, and for furnishing these people with cattle, to graze and roam and multiply in the beautiful natural meadows of their new Western home.

Sir, said Mr. L., I must express some surprise, with all my respect for the honorable chairman of the Committee of Ways and Means, [Mr. McDUFFIE,] at the view which he has taken of this subject. He tells you that he proposed this amendment, rather as a performance of a duty which devolved on him from the position which he occupies as a member of this House, than from a belief that the appropriation is necessary to carry the treaty into effect.

He has arrived at the conclusion that the bill of the last session providing for the emigration of the Indians affords to the Executive the necessary funds to comply with the stipulations of the Choctaw treaty, and consequently that the appropriation of eighty thousand dollars is unnecessary. Mr. L. said he must beg leave to differ with the honorable gentleman; he [Mr. L.] concurred with the President of the United States, in the construction which he had placed upon the Indian bill of the last session. Nothing in that bill could be found to authorize the building of school-houses, churches, and the purchase of cattle, (and other items contained in the treaty,) for the Indians who might emigrate from the east to the west of the Mississippi.

The President of the United States, and his political friends who coincide in his views on the subject of Indian emigration, are not only the professed friends of the red man, but they are friends in reality; they are disposed to prove their faith by their works; they not only wish to remove the Indians from the States, but they are anxiously disposed to better their condition, and, if possible, elevate their character, and add to the comfort and welfare of these perishing remnants of the aboriginal race of this vast continent. Every consideration of justice, magnanimity, and enlightened policy, connected with the present and future history of our republic, demands at our hands a liberal policy towards the Indians. On subjects relating to the disbursement of public money to promote the interest of the Indians, we should not hesitate to be liberal. In the present case every expenditure contemplated will not only be reimbursed to the treasury, from the proceeds of the lands acquired from the Choctaws, but a very considerable surplus will arise from that source. The friends of emigration stand pre-eminent in liberality to the Indians. The enemies of this policy, prodigal in public expenditures generally, are great economists touching all appropriations relating to the comfort, improvement, and prosperity of the Indians.

But, if the destiny of heaven does not forbid it, President Jackson, and his friends who co-operate with him, will evince to the world, that, notwithstanding the obstacles thrown in their way by their opponents, they have been successfully engaged in a work founded in wisdom, benevolence, and christian philanthropy. Mr. L. said he would now call upon his Massachusetts opponents, [Messrs. BATES and EVERETT,] as well as all their co-workers, to prove the sincerity of their professed friendship to the Indians, by their votes. The case presented, said Mr. L., is simply this: will you leave the Indians in their new Western homes—naked and destitute? Or will you provide for their comfort, instruction, and benefit, according to the stipulations of the treaty?

The President and his friends have a thousand times been falsely accused of entertaining unkind and oppressive views towards the Indians, as disregarding their interest, and only desiring their removal, from selfish and immoral considerations.

Now, sir, said Mr. L., if President Jackson and the

Georgians were not the true friends and benefactors of the Indians, they would be entirely indifferent upon the subject of this appropriation. The provisions of the Indian bill of the last session provides all the requisite means for the removal of the Indians. But, by the late treaty with the Choctaws, further stipulations have been entered into, highly important to the interest of the Indians. The Senate have ratified that treaty. The appropriation of the money is now asked of this House—and with astonishment we see the whole of the political missionaries place themselves in the most hostile attitude to the interest of their red brethren and beloved allies, the Indians, who have so often been pathetically wept over by their pretended friends in different sections of this Union.

Since the commencement of the present session of Congress, have we not seen the proceedings of the Legislature of the State of Massachusetts assuming the prerogative of sitting in judgment upon heathen affairs in general. They have modestly denounced General Jackson and Georgia. They have instructed their Senators and Representatives in Congress to use their influence to rectify the supposed wrongs of the President and Georgia, which they have been deemed guilty of, in what the Legislature of Massachusetts considers violations of Indian rights and sovereignty. Their Representatives here [Messrs. BATES and EVERETT] have faithfully obeyed their instructions. And how have they done it? By making speeches on matters and things in general, relating to Indian affairs? By attempting to wrest from the President of the United States his official prerogative and discretion in the mode of the payment of Indian annuities, and making him subservient to the power of President Ross and his Northern allies? By withholding the means of complying with treaty stipulations? And by endeavoring to provoke Georgia and her public functionaries to acts of indiscretion? The plan of our opponents, said Mr. L., is obvious. With all their professions of devotion to the interest of the Indians, their conduct proves they care nothing about them, further than to use them as a pretext to irritate, agitate, and goad on the South to acts of indiscretion. To weaken the bonds of the Union, by causing the Southern States to commit hasty acts of imprudence, that may palliate or plead an apology for the designs and measures of the North, in days that have gone by. I trust that my beloved South will not be hurried on to any act of indiscretion. That we may not suffer our affections to be alienated from the people of any portion of this Union by the various provocations of those who are engaged in the unholy works of discord and distraction. I have neither time nor disposition, said Mr. L., to notice all the absurdities of our opponents. I must draw to a close, by admonishing our opponents to cast the beam out of their own eye, before they attempt to meddle with the mote in the eye of others.

Sir, said Mr. L., the people of Massachusetts, having long since destroyed and consumed their own Indians, in their own way, without molestation from any body, I would advise them not to interfere longer with the Southern States in the efforts which they are making to save their Indians.

Georgia understands her constitutional rights, and she will preserve them. "No new State shall be formed out of any part of any State, or parts of States, of this Union, without the consent of the Legislatures of the States concerned, as well as the Congress of the United States."

Congress has no constitutional power to prejudice the claims of any State of this Union to its territorial rights of jurisdiction. Moreover, it is the imperative constitutional duty of the United States to protect each and every State of the Union, not only from invasion, but from domestic violence. Again: The enumeration, in the constitution, of certain rights "shall not be construed to deny or disparage others, retained by the people." Ninth amendment of the constitution.

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*Internal Improvements.—Live Oak in Florida.—Duty on Sugar.*

[H. or R.]

Again, tenth amendment of the constitution: "The powers not delegated to the United States by the constitution, nor prohibited to it by the States, are reserved to the States respectively, or the people."

Eleventh amendment: "The jurisdictional power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against any of the United States, or by citizens or subjects of any foreign State."

Sir, said Mr. L., my State is amply and fully sustained in all her acts, deeds, and doctrines upon the various Indian subjects—by the plain letter and obvious spirit of the constitution of the United States—and I have taken a solemn oath to support that instrument.

Mr. STORRS, of New York, desired to know whether the treaty was before the House. It was unprecedented to vote an appropriation to carry a treaty into effect before the President communicated a copy of it to the House. No such communication, he was informed, had been made, and he was, therefore, opposed to the amendment.

Mr. DWIGHT was not solicitous about the amendment, but he stated that his object was embraced in the general appropriation of five hundred thousand dollars last year: but that appropriation had not been touched; it remained in the treasury, and would go to the surplus fund, and it was necessary to make a new appropriation for this object, if it was to be effected.

Mr. McDUFFIE observed he was indifferent about the fate of the amendment in committee. He had offered it now, that he might be able to offer it in the House when a copy of the treaty should be received.

The amendment was then rejected without a count.

#### INTERNAL IMPROVEMENTS.

The committee took up the bill making appropriations for certain harbors, and providing for certain surveys.

Mr. LEA moved to increase the appropriation for the improvement of the Tennessee river from five hundred to five thousand dollars, and to include the branches of that river; which was agreed to.

Mr. HAWKINS, of New York, moved an appropriation of five thousand dollars for removing the bar from the mouth of Black river, on Lake Ontario; which amendment Mr. HOWARD opposed, and Mr. HAWKINS explained and earnestly advocated, and it was agreed to.

Mr. HALL, of North Carolina, moved an appropriation of five thousand dollars to remove certain shoals below Washington, in North Carolina; but avowed that he could not vote for it himself, yet hoped that those who had no constitutional scruples on the subject of such appropriations would agree to it. The amendment was rejected.

On motion of Mr. SWIFT, an appropriation of five hundred dollars was inserted for deepening the channel between Hero, on Lake Champlain.

Messrs. BOONE, RICHARDSON, and LECOMPTE made unsuccessful attempts to get appropriations for particular objects.

The committee next took up, in succession, the lighthouse bill, and the bill making an appropriation of one hundred thousand dollars for a custom-house in the city of New York; which having gone through,

The committee rose, and reported all the bills to the House; and then

The House adjourned.

SATURDAY, FEBRUARY 26.

#### LIVE OAK IN FLORIDA.

Mr. HOFFMAN, from the Committee on Naval Affairs, to which was referred the letter of the Secretary of the Navy, of the 7th of January, upon the subject of live oak timber in Florida, made a report thereon, accompanied by a bill to provide for the punishment of offences in cutting,

destroying, or removing live oak and other timber, or trees reserved for naval purposes; which bill having been twice read, Mr. H. moved that it be ordered to be engrossed, and read a third time to-morrow.

Mr. WILDE had the preservation of this invaluable timber much at heart, and doubted the expediency of the course recommended by the Secretary of the Navy, in relation to it. He hoped this bill was not in accordance with the suggestion of the Secretary, and that it was not the precursor of an intention to abandon the artificial cultivation and protection of the live oak timber.

Mr. HOFFMAN replied distinctly that it was not; but that it was the intention of the Government to continue the protection and cultivation of the timber.

The bill was then ordered to be engrossed for a third reading.

#### DUTY ON SUGAR.

The House resumed the consideration of the resolution moved by Mr. HAYNES, of Georgia, on the 11th January last, to reduce the duty on sugar.

Mr. WHITE, of Louisiana, rose, and addressed the House as follows:

He said it appeared to him that the situation in which he was placed was a very unfortunate one; and misfortune would sometimes impel a man to do what he would otherwise abstain from.

An interest of vital importance to the people of the State from whence I come, said Mr. W.—and, I think, no less important to the people who abide in every other State—has been directly assaulted. The gentleman who had the honor of leading the van in that attack, has made a number of statements, and has ushered them to the world in the semblance of facts. I, however, am unable to accredit them in that capacity. But, at all events, they are asseverations made, or purporting to be made, on the floor of Congress, and they ought either to be admitted if found to be correct, or contravened if a doubt be raised as to their accuracy. The honorable mover had a right to say what he did, and to say it at the time he did. It was a franchise belonging to him, as the introducer of the measure. After he had concluded his oration, and had been supported by a speech from another quarter, the duty fell to me—though many other gentlemen would have been infinitely more competent to the task—to make some reply, if any were required; not, however, to answer at that time, because the finger of the dial was just approaching the point which must bid the altercation terminate for that day. The circumstance has been so stated in the newspapers; and the people where we live must be looking, with some curiosity, to see whether we have thought it worth while to denegate, or have quietly made up our minds to acquiesce in those facts of the gentleman's invention, in which they must think, with ourselves, that he is blest with a most wonderful facility. It does seem hard that such a sequence of rhapsodies should be suffered to go abroad through the country, with the avowed object for which they were emitted, without any opportunity being afforded to examine their infallibility at the source from whence they emanated. Yet here have we been met, and precluded by the rule of the House which sets apart but one hour a day for the consideration of the subject, together with a great variety of other things which constantly supersede and take precedence over it.

I have been waiting in perfect resignation for the natural order; yet, during all this period of expectation, but one opportunity has presented itself, and that was, on one morning, the poor space of something less than five minutes by the clock; and even then the House was not ready for the discussion. But if we had been ready, and had been furnished with the documents for which we were waiting, and which were deemed indispensable, and without which, of a surety, I could not have proceeded with any kind of propriety, it would have been but a mockery

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to take up a subject of so much magnitude, to be then laid aside to make room for other matters of minor consequence.

The resolution has at last come up in its regular turn: and what portion of time is now allotted to it? Why, sir, a considerable portion of the hour is already flown, and its remaining moments are fast ebbing during the allusion. There are but four days after this remaining of this session, and, even of these four, one is assigned to the consideration of petitions; and if we continue to adhere rigidly to the hour rule, I see no chance worth talking about, for any response from our side of the House.

The subject-matter of the resolution, like all matters of political economy, is complex in its nature, involving a great multiplicity of topics, which, indeed, I have no pretension to be able to suggest, much less to treat in a fitting manner. Yet it would be gratifying to me, in the attempt which it is my duty to make, to have some little more latitude than the rule allows. I am aware that it requires some effort of boldness to ask any departure from rule, at this late hour of the session, when so much important matter is pressing: on the time and attention of Congress; and it is with entire deference to the views and feelings of every gentleman, that I make the request, which nothing but a strong sense of duty prompts me to: it is for a brief suspension of the rule.

[The question on suspending the rule for an hour was put, and carried by a majority of more than two-thirds. Mr. W. then continued:]

I am sorry, very sorry, said Mr. W., that a conjuncture should have presented itself, to make it needful for any one from the country where I live to say any thing that may at all connect itself with this much vexed subject of protecting duties. Whatever may be the merits or demerits of the tariff policy; whether its operation has been a beneficial one, as I think it has, to the nation at large, or an injurious one, as some wiser men than I am seem to opine—in short, whether it has proved a national blessing or a national curse—as its apologists and its revilers alternately contend—We (I speak in the name of those who send me) have beguiled ourselves with the belief that the duty contemplated by this resolution was, from its very nature, and from all its concomitant circumstances, entirely foreign to that long agitated controversy.

Looking back for its origin to a former century—coeval almost, in its existence, with the very Government under which we live—having grown up, as it has, with the growth of the country, and interwoven itself, as it must have done, with all its political economy, as well as with the individual and domestic economy of every man and every woman in it—claiming no identity in point of date with either of the far-famed tariff acts of 1824 or 1828, which have become so offensive to the sensibilities of gentlemen, and against which alone their professed hostilities have been hitherto directed; transcendently lucrative, valuable, and important, as we know the interest which has grown up under it to be to all, and less so to ourselves than to the people of every other portion and fractional subdivision of this nation—deeply imbued with all these impressions, we have been so far the victims of credulity, as to hope that the elements of that strife might rage and fret themselves to death, without ever reaching us, in the seclusion of our distant, peaceful, unobtrusive agricultural pursuits.

The uniform course of the State, through its representation on the floor, has been such, one would think, as to mitigate, if any thing could assuage, that reckless zeal, which would now press onward, regardless of consequences, to the utter annihilation of the little doubtful prosperity we have enjoyed; which would fain break down even unto the very dykes of the Mississippi, and turn the old flood loose, to revel once more over an extent of fertile country, which nothing but a century of unparal-

leled labor and privation has succeeded in reclaiming from its once superincumbent waste of water; and has transformed it into a bright and busy mart, where the active and the enterprising of the fellow-citizens of every gentleman on this floor daily and hourly resort, to garner up and carry home stores of hoarded wealth, in return for the various products, whether of agriculture or manufacture, of the several countries where they reside.

To dry up these sources of national and individual wealth, and to convert our shores, now decked with costly manufacturing establishments, into idle solitudes, is the object. It must be the patriotic wish of gentlemen; and if it be not the object, then let me tell them, it inevitably would be the effect of the measure, supposing it carried into fulfillment. I speak it in the utmost seriousness, when I declare my belief, in which I am confirmed by the opinion of every intelligent man where I live, that if you abolish this duty, you make the banks of the Mississippi a wilderness; and, so far as my individual option goes, I would rather you did your work thoroughly than by halves. Gentlemen may talk about modification, from the gratuitous supposition that men who are doing so astonishingly, may well bear a reduction. They may romance as much as they please about eight or ten hogheads to the acre, or to the hand, whichever way they choose to have it: I say, that if you touch the duty, by that fatal contact you in all probability sink fifty millions of the nation's capital, and transfer at once to the foreigner the five or six millions which its employment now produces to the people of the United States, and in which they all, full nigh, come in for equal shares. And, rather than have you lay a violating hand on any part of the ark of our covenant, I would invite you to do at once the ultimatum of your destructiveness, and strike every vestige of it from the page of your statute book.

I made some allusion to the line of conduct held by the State in relation to these matters. Sir, whether our course be characterized by wisdom or by folly, I do not stand here to discuss. But there is one fact I may be permitted to remind gentlemen of, which is this—that those said tariff laws, be they right or wrong, against which they are pleased to take so much umbrage, are in no wise indebted to us for their being: it was no auxiliary hand of ours that helped to call them into existence. Look back through the records of our parliamentary proceeding, and, if I be not mightily mistaken, you will invariably find the voices of our representation on the negative side of all questions for the increase of duties, with the sole exception, perhaps, of the act of 1816, whereby the duty now in question was created, and for which I have heard it stated, sometimes tauntingly, that some of them were induced to vote. And what of that? Why, sir, in so doing, they acted conjunctly, and moved hand in hand, with all the principal members and *coroplasts* of these very States who now, forsooth, find it meet to ring the alarm bells—at what? At a most important national interest, now grown hoary, and, one would almost think, prescriptive, by time, and which was deemed by their best public men, in 1816, to be an object deserving their utmost solicitude and regard; an interest, too, which has since produced to gentlemen, and to every man who has had a hand in sending them here, benefits more substantial and material than any thing their law makers of that day could have anticipated—ay, far transcending all they could have dreamed, in their moments of warmest aspiration for the future success and prosperity of their country.

But, sir, I am running forward of what I was going to say in reference to the conduct of the State touching these said tariff questions. Returning to that point, I say, that throughout the whole course of our national legislative history, up to the act of 1828 inclusively, whatever little weight our representation may have had in the councils of the country, has always, or generally, gone in op-

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position to proposals for the increase of duties. And how do we, their successors, now act? Why, we, in pursuance of the dictates of our own mind, and in compliance with the expressed legislative will of—I will not say our country—but I say that, in obedience to our own judgments, and to the expressed opinion of the Legislature of our State, we now freely give our votes for the maintenance of enactments which our predecessors may not, perhaps, have supported on their passage. Nor am I at all aware that the fact implies any fickleness of purpose, or any vacillation of sentiment or policy. I apprehend you would find us as slow now, as you found them then, in yielding our assent to any projected scheme of augmentation, however useful or expedient we might deem it. This, however, is but surmise of mine, and on that point, of course, we must beg leave to reserve to ourselves the right of decision. But, sir, to impose duties is one thing, and to take off duties is another and an awfully different thing. It is one thing to hold out your inducements to industry and capital, and it is another and a very distinct thing, “by one fell swoop” of your legislative besom, to sweep from the face of the earth millions of industry and capital, which, by your national faith, tacitly plighted—unless you are ready to repudiate all idea of faith in a Government like ours—by your nation’s faith pledged, and religiously observed, too, for a tract of time—say twenty-seven years, for such is about the period of its application to us—you have called forth and lured into the fair field of honest enterprise and successful competition.

These are, in part, the motives on which our conduct proceeds; and I challenge the casuistry of gentlemen on this floor, and I invite the sober sense and equitable feeling of the American people, wherever found, to gainsay them if they can. Yes, I would appeal from the bickering jealousies of this heated, inflammatory atmosphere, to the hearts and to the heads of the people of the United States, and to none quicker than to those who live in Georgia and Virginia.

But, sir, the motives I have mentioned do not constitute our sole and only spring of conduct. While we acknowledge some regard for the interests of persons dwelling in other portions of the country, from the conviction that their prosperity is our prosperity; while we are even so unfashionable as to own some deference for that precept of the moral law which forbids us wantonly to destroy or to injure our fellows, we have other more immediate, palpable, and material governing considerations.

When those much abused tariff acts were in the chrysalis state, we did not precisely understand how they were to operate. They were represented to us in the light of “experiments.” The system cognomened “American,” seemed likely to lead us on “through new scenes of untried being,” and, as was natural to men on the verge of an important step, we paused to soliloquize. But, sir, the experiment has since been tried before our eyes; and we think we have witnessed its success. We have seen it realize, or tending rapidly to realize, almost all that was predicted of it, at the time, by its friends, and consequently falsify, or rather agreeably disappoint, the sinister ratiocinations of its foes. Its immediate effect, with us, has been to give us almost every article of primary necessity of a much better quality, and at an infinitely reduced price. By quickening internal commerce, and awakening into exercise the latent capabilities of American ingenuity, it has developed to the nation new sources of wealth, strength, and prosperity, to which it was before a stranger. By opening new markets, and creating new demands, and by promoting a rapid interchange of commodities between different sections, it has multiplied industry and employment, and has thus brought an increased ratio of virtue and happiness to the great mass of the people.

It is not my intention, nor is this the proper time, to go into any elaborate enumeration of particulars, yet I must be allowed, as connected with this subject, merely to cite one or two items by way of illustration. I will take, for instance, the article of cotton bagging, which is one of those things on which we of—where do we live? I hear persons talk of a hither and a further West—so also, in appearance, must we duplicate the other cardinal points—on which we of the further Australia are taxed and oppressed, if taxation and oppression there be in it, to the full extent as much as our neighbors of the South are. Well, sir, this necessary article, which, before the tariff of ’28, cost us twenty-six or twenty-seven cents a yard from Europe, we now get from our American tax-masters for sixteen or seventeen cents. There is a clear fall of ten cents in the yard.

Iron, of which we consume so much, more, perhaps, than any two of the States, which enters so immensely into the process of manipulation and manufacture of sugar, and which also is one of those things against which the ejaculations in our neighborhood are so loud and enduring. Well, sir, this indispensable convenience has fallen in as great, or a greater, proportion than the cotton bagging. Evaporating kettles, of a much better metal, which offer an infinitely more effectual resistance to the intense heat of our furnaces, we now get of domestic cast, for twenty-five or thirty-five per cent. less than we paid for them before the tariff of ’28. Sugar mills, I mean mills with the large iron cylinders, for expression, and steam engines, now cost us about one-half what we paid for them three or four years ago. And, sir, not only do we get these things, but we get them abundantly. Whilom, and the supply was extremely precarious, owing to the three thousand miles of ocean that flowed between us and the countries from whence we derived them: now, assortments of the implements from the Atlantic seaboard and from the Western States are cumulated at every village and hamlet along our coast, to be obtained by the farmer on the most advantageous and accommodating terms.

But, sir, this is not all. While we are drudging at the mill, or watching by the midnight oil the ebullition of the kettle, we must have raiment; accordingly, there are the domestic cottons for clothing to ourselves and laborers, which cost us something more than zero. Coarse woolen cloths have been constantly declining in price, and improving in texture, for the last four or five years: and yet the most important considerations remain still untold. By consuming, as we do, the productions of all the other States, they are enabled to become the purchasers of our sugars—and the raw material of our cotton generally finds its best price in the American market; a market which is exclusively our own, in which we, the cotton-growers of the United States, are the monopolists, or rather the monovendists, where neither the Pacha of Egypt, with his hundred thousand serfs, nor the starving rice-eating millions of India, are permitted to interfere, and compete, and knock down to the dust the value of our staple.

Now, if this be taxation and oppression, then I say, taxation and oppression for me: only let us define the terms, in order to understand each other, and avoid confusion of ideas. I see no insuperable objection, if gentlemen insist on it, why the nomenclature of things should not be changed, provided only that those who use the vocabulary would mutually agree on the mutation.

I have thought it might not be improper to offer a few general observations on the system of which the object looked to by this resolution forms a part. I will now endeavor, under favor of the House, to narrow in the circle of my remarks, so as to make them more immediately applicable to the subject under consideration.

The culture of the sugar cane in Louisiana appears to me to present three principal aspects under which it deserves to be considered. The first relates to the extraor-

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dinary profits supposed to be realized by those who are engaged in it. This I regard as a topic of most perfect futility; yet it is one which it has pleased gentlemen to start for the want of a better. The second applies to the influence it has had on the supply and the price of the article to the whole people of the United States. The third, and most important, involves the inquiry as to the extensive market it has created for the productions of every State in the Union. I will endeavor, if I have time, to say something on each of these separate heads.

In approaching the subject of our supposed inordinate profits, it seems to me not inopportune to notice, at once, some of the statistics for which we are indebted to the lubrications of the gentleman from Georgia. I would not think of following him through all the minutiae of the lore with which he has thought fit to store his memory or his tablets for the occasion, but would merely advert, hastily, to such things as appear to me useful to the end of the inquiry. In undertaking this task, my vocation must be a mixture of pleasure and of pain; pleasure, in having it in my power to agree with the gentleman in some respects; pain, in being compelled to differ from any of the dogmas of his belief on this or any other subject, as indeed the points on which our opinions are irreconcilably discrepant are chiefly such as he chooses to derive from gratuitous inference, or, what is far worse, from the tongue or trumpet of that abominable terrific of nations, that lying plague—common rumor. What are the precise data we gather from him? Why, he informs us that, in 1803, the condiment sold in Philadelphia for twelve and a half cents a pound. That I do not deny. I know that about that time, both before and after, it frequently sold for that much, and oftentimes for much more. He says that, in after years, the price declined in Europe, and here in the United States. I know that, too; and there, I contend, our influence began to be felt. He has ascertained that the price of it at New Orleans now ranges from five to five and a half cents—take the average, or price current, five and a quarter cents—and that the quantity produced there is estimated for the past year at one hundred thousand hogsheds, equal to one hundred millions of pounds. My information in this respect does not differ materially from that of the gentleman; and I say it is a splendid result, and is, of itself, quite sufficient to enlist in its behalf the intelligent sympathies of the people of this country, and even to propitiate the most sordid, selfish feeling—if such alone must govern Americans—of every one.

The gentleman also says that sugar has been bought in the West Indies, during the last year, at four cents a pound; and I am willing, for the present, to put the argument at that ground, reserving the point for some future consideration.

I will here take occasion to offer my acknowledgments to the gentleman for all the facts, properly so called, which he has adduced. It would have been my duty to search them out, if he had not done it; and I have no doubt he has taken them from the State papers of the day, or consulted chronicles on which he relies.

But here it grieves me to say, the harmony and good understanding between his opinions and mine must end. I have none, no, not the slightest objection to his facts; but the moment he begins to assume premises, and seeks to enlighten our intellect by what he has been told, I must be allowed, for the moment, to turn lawyer, and enter my objection to the admissibility of the hearsay. With that ingenuousness which marks his life and conversation, he admits that he has no practical acquaintance with the subject: but he says that a friend, or, perhaps, a plural number of friends, have told him how it is—and so, with one dash of his pen, and the addition of a given number of zeros, he showers, nay, he heaps, on our devoted heads more gold than was ever dug from the caverns of Potosi.

Why, the gentleman must have discovered for our benefit that grand arcanum, supposed to exist in nature, but for which the dreaming alchemist has sought in vain since the birth of time. A very Midas! he but touches us, and lo! we stand confessed, in form and pressure, as solid masses of the shining dross. He shows, by calculation, very satisfactory to himself, I have no doubt, that a saccharine concern in that country yields a nett profit to its owner of more than thirty-two per cent. He takes up a plantation, which he estimates, with all its paraphernalia, its apparatus, its laborers, its horses, its implements, its stock of every kind, at fifty thousand dollars; he then proceeds to state its account current of profit and loss for the year, in the most mercantile style of debit and per contra; and he brings out, at the end of the year, a nett profit of more than twenty thousand dollars to the proprietor!

Now this is certainly a handsome little interest on money in such hard times as these; and I wonder why some of the loose cash that is hawking about these other States at four and five per cent. per annum does not flow in that direction, and seek to invest itself in sugar plantations. I wonder that two-thirds of the people of Louisiana should continue to slave for nothing in the culture of cotton, when they see their next door neighbors plenishing their barns with doubloons. I wonder that the people of the adjacent States, who are looking on with every thing requisite in hand, do not step over the border and make their fortunes. I marvel that the gentleman himself does not mount his Argo, affront the perils of the Florida Strait, and sail up the Mississippi, to pluck the golden fleece. I can tell him why he does not. It is because he knows very well there is no such prize there. Sir, if the story were entitled to a moment's credence, you would find in Georgia alone ten thousand valorous men to start at the word, and attempt the enterprise. If but one-half the described wealth were to be collected on our shores, we should be overrun in less than twelve months by swarms more numerous and more greedy of gold than were the blue-eyed myriads that rushed from their Germanic fastnesses on the devoted provinces of the Eastern empire.

Fifty thousand dollars yielding a nett profit of twenty thousand dollars in a year! I have no objection—no, not the slightest—to the gentleman's arithmetic. I only wish it could lay claim to some portion of that accuracy commonly ascribed to the exact sciences. I sincerely wish, for the sake of the gentleman himself, and all his friends in Georgia, that it were but half true—ay, that it were but true in one-fourth part; and that it has a fourth of truth, is what I unhesitatingly deny. Ha! here is a mooted point. The gentleman says twenty thousand dollars—I say not five. How shall we decide the issue? To what umpirage shall we resort? To a wager? No, that is no test of truth. Yet, perhaps, (who knows?) the gentleman from Georgia, or some of his informants, might be willing to underwrite the result. May be they would undertake to make the achievement sure by the appliance of their own skill and craft in the science of tillage; if so, then I say to them, Come one, come all, and I will pledge myself, and will furnish a hundred responsible co-obligors on the bond, if required, that they may select any establishment in the State they please, not worth more than fifty thousand dollars; and, in fixing its value, we will estimate the mere land below what their best lands in Georgia sell for; and they may then assume the entire management and control for any length of time they please—two, three, five, or ten years, they guarantying to us the said nett profit of twenty thousand dollars per annum; and if they do, that we, on our part, will then guaranty unto them an annual salary of fifteen thousand dollars a year for their services; yes, and they shall have bed, board, and washing besides, and a horse to ride, and a seat in the parochial church to boot. Was there ever a fairer offer? The



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gentleman says they make nothing in Georgia. Here is a chance of fortune with us. Do you come and oversee, and ensure to us the nett profit of twenty thousand dollars, which you so confidently describe, and we will then ensure to you an annual stipend of fifteen thousand for your pains, and allow you besides the sundry little franchises I have mentioned, in order to keep the whole of it in your pocket.

Fifty thousand dollars yielding a clear pfofit of twenty thousand dollars! What immensely rich characters must we be! Mr. Speaker, one of the most harmless pastimes of the money-hoarder is said to consist in the joys of telling his pelf; one of the most innocent pleasures of the rich, in reckoning the aggregate of their gains. Now, only allow us a moment's fruition of this kind, and let us count.

According to the best estimates we are enabled to obtain, our investments in that culture amount to fifty millions of capital—ay, sir, to fifty millions of hard-earned dollars—not earned, however, by the cultivation of sugar. Now for the proportion. If, as the gentleman asserts, fifty thousand dollars yield a nett profit of twenty thousand in one year, how much do the fifty millions yield? Work the sum. Why, sir, it is twenty millions of dollars—almost equal to the whole revenue of the United States! The budget of your Department of Finance puts down the gross revenue of the United States at twenty-two millions—I drop fractions. The budget of the gentleman from Georgia assigns to one class of planters in a single State—a State having but three Representatives on this floor—a nett revenue almost equal to the whole gross collections of your Government, with all its imputed blood-sucking and vampyrism; notwithstanding its alleged system of taxation and oppression, which, they say, is such that the people can no longer bear it.

Sir, deduct your expense of collection, the salaries to your officers of the customs, and the cost of your revenue service, which may be about assimilated to our brokers' fees, and then, according to the gentleman's hypothesis, the difference will be but a fraction between the whole gross income of the United States and the nett income of a few planters in Louisiana. And who are they that are accumulating such a mountain of the precious metals, as, if true, must in a short time crush through the feeble substratum of their alluvion, and whelm both it and themselves to the depths of the bottomless abyss? Who, I say, are they? Why, they are a small portion, numerically considered, of the agriculturists of a small State! What wealthy Nabobs! what bloated Viceroyals! what gorgeous Indian Rajahs must they be! Pretty attributes these to ascribe to a class of men notoriously the most plain, unostentatious, uncostly, practically republican men, in all their habits and modes of life, of any in these United States!

I do not pretend to deny that there are some men of wealth there; there are some every where. I know several myself that have gone from these other States, principally from Georgia, and Carolina, and Virginia, and have taken their wealth with them, though very few of them have much enhanced their substance by the products of the cane. Neither do I deny that there are sundry persons there who dwell in decent houses, and live as persons similarly circumstanced do in other countries; and even they, I contend, do not live, nor are they enabled to live, in the same style of elegance and comfort with people of equal condition in other States. Sir, I speak of the great majority of those who are engaged in the culture of sugar, when I say that they are men who toil and drudge in a way that the gentleman has no conception of; for, during the period of their harvest, which runs through a portion of the inclement season of winter, they have to labor the livelong night as well as by day; that they are men who, for eleven months in the calendar, go clad in blanket coats, and wear domestic trowsers from your looms; that

they are men who habitually sit down by a deal board table to a homely repast of bread and salted fish or meat bought from you, to which some, not all, are enabled to add the zest of a measure of cheap claret wine, which the sultriness of their climate makes an almost indispensable requisite to existence; while other persons, luxuriating beneath the bland influence of milder skies, are banqueting on the culled dainties of the earth, and rousing their sated appetites by the costly potatoes of France and Spain, or sit sipping the rich juices of the Fortunate islands, in order to discriminate whether the vintage have been chilled by the too rude visitation of the breeze on the northern slopes, or be dashed by the fine aroma imparted by the southern exposure. Yes, sir, those men who, you say, tax and oppress you, are men who delve and feed coarse, to tax and oppress you in reality, but they tax you with ease and with affluence, and they oppress you with Champagne, with Sherry, with Madeira. And what do you do the while? Why, you sit gravely talking of their inordinate wealth and luxuriousness, and solemnly discussing the propriety of legislative intervention, to bring them down from their high estate, or, in tailor phrase, to take them a button hole lower.

Now, Mr. Speaker, I will appeal to you: is it not amazing that any portion of our country, and especially that little nook of it, should even at this day be so illy comprehended, so liable to be misunderstood, even by intelligent, well informed American statesmen? With nothing at all of romance in its position; without mountain and without mist, though with plenty of rain and hot weather; a plain, simple, matter of fact country, of hard work; the most accessible in the world, to our friends and yours, from the sea as well as from the land, and which is annually visited by thousands and tens of thousands, pilgrims to the shrine of pleasure or of gain, from every State in this Union! Is it not passing strange that such a place should continue to be the theme of such wild, improbable, incoherent imaginings? Why, no, I suppose it is not strange—it would seem to be preordained that it should be so. The same hallucination has existed for a hundred years or more, and will, I dare say, exist for a hundred years to come. A similar delusion prevailed in France at a very early period of our colonial history. The whole city of Paris was shaken by the frenzy. Public declaimers, then, as now, with Law, a visionary enthusiast, or mad schemer, at their head, proclaimed that the banks of the Mississippi were the famous El Dorado of which the poet had raved. Its inhabitants they depicted as Thomson describes the inmates of the Castle of Indolence: they all dwelt in sumptuous palaces; by night they slept on cushions of softest eider down; by day reclining on damask ottomans, listening to the "lascivious windings of the lute."

In this Eden of the new world, they asserted no labor was required—men sowed not, neither did they reap; wishes were no sooner formed than gratified; every thing that could minister to the appetite was scattered in spontaneous profusion through the land; every clod sparkled with a gem—every pathway was strewn with glittering ingots of silver and of gold. And, sir, the tale had its proselytes then, as it seems to have now, and as things incredible always will. Hundreds and thousands believed the story—and, sir, what came of it! It eventuated in the celebrated Mississippi scheme, in which hundreds of deluded victims of both sexes embarked. They came to the El Dorado, and what did they find? They found dreary coasts and inhospitable shores; primeval forests, dank with noxious vapor; and spreading morasses, rife with lethiferous malaria; and, worse than all the rest, squalid misery and ghastly famine staring them in the face. So burst that bubble—but the eloquence of the gentleman from Georgia not unforcibly reminds one of the ideas to which the inflation owed its birth.

Now, Mr. Speaker, how are such errors and miscon-

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ceptions to be obviated? I know of but one way, and that is, by free and frequent intercommunication. That is one reason, perhaps, why I have generally, whenever I had a chance, given my vote for the construction of roads. I consider it a national benefit—a great national object. Whenever any one man is induced to travel beyond the narrow limits of his own immediate vicinage, to go to see, and visit, and hold communion with his fellow-citizens in other portions of the country, he then sees things as they are—not as he has been told they are: he is thereby enabled to rectify false pre-impressions, and to heal himself of the besetting sin of misguided prejudice. He is sure to return home a better philosopher, a better citizen, and a better man.

Instead of giving my vote to abridge the mileage of a member of Congress, I would vote to extend it—instead of passing bills to make him go in a straight line through the air, like some migrating goose that sees a thousand miles off the lake in which she soon intends to lave, and, springing into ether, wings her way with unerring pinion—I would, if possible, make him visit every State in the Union, and would pay him for it. He might go zigzag, or he might go round; but go he should, if practicable, into every one—from a conviction that when he next approached these halls, he would come with feelings chastened and subdued, and in a mood of mind better fitting to perform those high functions in which he represents the Deity on earth, of making laws for the government and happiness of his fellow-men.

Mr. Speaker, there is a little trait of personal history, which most of us have been made to read in the day-spring of our time. It relates to a most excellent man and wise lawgiver, who was afterwards promoted to a very high station in the judiciary. I do not, just now, recollect his name, nor is it material to determine, but he held sway in Crete.

This sage lawmaker, harboring in his bosom the wish and the design to better the lot of his people, who had grown restive, they scarcely knew why, resolved to journey into foreign parts, in order to study the polity, and examine with his own eyes the condition and resources of some other States that were then in high renown. Fame, with her many tongues, told him of the wealth and splendor of Egypt—the exuberance of her soil—the grandeur and magnificence of her monuments—and her catacombs. Thither, said he, will I go. Accordingly, having provided the muniments of his voyage, on the appointed day he departed for the land of the Nile. He visited Memphis, Cairo, and Thebes with her hundred gates; and what did he see? Why, with some semblance of external splendor, he saw mummies, and he met the seven plagues of Egypt. Casting his eyes abroad through the land, he beheld a people, with a soil indeed of unbounded fertility, yet poor, toil-worn, and depressed themselves, while from the horn of plenty they poured abundance into the lap of all the surrounding States. He was satisfied—he hastened back to his own country, which he now liked better, and found it to be better off than all those of which he had heard so much. He applied himself to soothe and compose the agitated minds of his people; and, by his precept and his example, he led them on to commerce, to agriculture, to arts, and to happiness.

Now, if the gentleman from Georgia would but do the same! If he, or any of his friends who think as he does, would only vouchsafe to come for a season, and reside with us on the Delta of our great father of waters! We have some hospitality, and would hail his coming with delight; and would take the pains to investigate the process, and scrutinize the account: not the account of his own copious imagination, but the actual account-book of any of our farmers of his choice. If he should prefer it, I would introduce him to some of his own immediate countrymen, possibly his own former associates and friends, who have

gone there, and embarked their all in the business, and whom it is now so perfectly natural for the gentleman to seek to destroy—for I have the pleasure to count several Georgians among the number of my most esteemed and valued acquaintances. If he will do this, I will pledge myself for a total, radical revolution in his ideas on this subject. He will at once perceive that it is not for ourselves we distil the sweets—that we are, in fact, but the laboring swarms who hive the honey for the ravenous vermin in our neighborhood to plunder; and I feel assured, that when he bids us adieu—which to us will be a moment of sadness—he will exclaim in candor, if not in sorrow—*Sic vos non vobis mellificatis apes.*

I would here gladly turn my back on this part of the subject. I fear I have already said too much on it. Yet I must be allowed, before I dismiss it, to relate to the gentleman an incident or two, of no great zest or importance in themselves, but which may, I trust, have a tendency to convince him of the danger there is in his searches after truth—though it be a question with some whether truth be always the object of gentlemen's pursuit—to rely too much on what he is told, especially on this subject of sugar making.

The first incident I would mention to him relates to a man from his own State, a Georgian. This Georgian, about two years ago, associated himself with several other persons connected with him by ties contracted in that country, to establish one of those plantations. They were none of them practical farmers; if they had been, they probably would never have touched it. The Georgian, whom it suits my purpose to designate as the principal of the firm, owning a predilection for the land of his former abode, went back to Georgia, in all likelihood to the gentleman's own county, and laid out fifteen thousand dollars in laborers. He next repaired to the Western country, and expended five or six thousand dollars in iron castings and machinery; he then returned home, and stocked his farm with the usual number of horses, probably about fifteen hundred dollars' worth, brought from the West, and filled his granaries from the great redundancy of their Western stores. Take it all in all, it was an establishment which must have cost him about fifty thousand dollars, not one cent of which was the previous product of the cane. And mark me, at the very outset, at least one-half this capital is diffused over these United States, and of that half, more than a moiety goes to the pockets of the people of Georgia.

Here you have a common instance of one of those engines of oppression described by the gentleman. It springs into life, equipped and ready for action, not frowning in martial helmet, and brandishing in dexter the quivering hasta of battle, but holding in its open and distended palms the emblem and the medium of commerce; the incentive at once, and the reward of peaceful industry. And before it has made the first step, yea, before its young limbs have essayed the first attempt at motion, it scatters fifteen thousand dollars into the bosoms of the people of Georgia. And, sir, it is but a fair specimen of our doings in that way. Of the seven hundred plantations in that country, six hundred, at least, within the last ten or fifteen years, would furnish the clements of a similar history. *Ex uno discite omnes.*

But, sir, this is not the moral with which I wished to point the tale. I will proceed with it. The Georgian now set himself about to organize his plantation and erect his buildings. For the first year he made nothing; he expected to make nothing. During all that period, nothing was heard within his borders but the note of preparation. It was the constant clink of the outlayings of his cash; the regular fall of the carpenter's axe, with the chime of the blacksmith's hammer beating time on the anvil.

But the terraqueous thing moved on in its orbit, until now another autumnal sun shone out upon the land. The period to which I now allude was about the last of Octo-

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ber, 1830, a few days before I left home to come to my duties here. By this time some yellow cane waved in the gentleman's field; his houses were up, and he was busily engaged in preparation to commence the manufacture of sugar on a new and expensive principle, which attracted some attention through the neighborhood.

At that juncture the narrator happened to be some distance in the interior, from whence I set out to proceed to my point of embarkation, intending to take the gentleman's house in my way. When I got within twenty miles of his residence, I was informed by several persons whom I met, intelligent persons, that he had commenced his operations; that he had been rolling, as we term it there, for several days, and that his new experiment succeeded wonderfully; that it was turning him out two hogsheds and a half to the acre! My heart gladdened at the tidings, and throwing the reins to the companion of my way, we proceeded on—until coming in sight of his dwelling, I strained my optics in the direction, and looked long and intensely, but I saw no smoke or vapor curling in bold relief against the sky. Drawing still nigher, I could perceive no throng of men, and horses and carts, as is wont on occasions such as that I thought I was approaching. In point of fact, he had not commenced the manufacture of sugar at all. He was not ready to begin; he did not expect to begin for fifteen days to come.

Now, I wonder if that story, which was told me in shape so plausible, within twenty miles of his residence, had been caught up by "that thing which every moment flies, and gains new strength and vigor as she goes," and had been repeated from tongue to tongue, of credible men all, until it had been waited to the ears of his friends in Georgia, what it would have been like by that time. Why, the romaunt with which the gentleman has entertained us here, of eight and ten hogsheds to the acre, or to the hand, would have been stale, rapid, and wholly unpalatable in the comparison. Nay, the balderdash we constantly see going the rounds of the newspapers, derived from an equally authentic source, relieved by a little wilful misrepresentation; those mendacious absurdities, generated by scribblers who never saw sugar cane grow, and forming a compound fit only to be gulped by boobies—would have had to hide their diminished heads, as devoid of relative interest and poignancy.

I will beg leave to narrate another fact, which relates to a gentleman formerly of South Carolina, now one of those of whom I am the unworthy representative. His name—it is Doctor Betty. I feel that I need an apology for thus pressing his name into the debate; but when I see it published in a printed paper to which it is necessary I should refer, and as I know him to be a man of note in that country, and well known to some gentlemen here from that State, I hope he will pardon the freedom in favor of the motive, which is none other than an earnest desire to correct error, and a wish to divest the truth of that opaque integument of fiction and misrepresentation which is so apt to cling around her honest form.

Well, sir, about three years ago the Doctor came into that country, and bought a farm; not for his own sole account, for he was, and still is, the copartner of another in it. Take it altogether, it is an important establishment, with thirty or forty servants, and which, in all, must have cost them at least fifty thousand dollars, valuing the land very low; fully such a one as, in the gentleman's estimate, always yields its owner a nett profit of twenty thousand dollars a year—and there he has been ever since, making sugar, and getting very rich, as a matter of course.

Some weeks ago—it was since this session of Congress, a gentleman from South Carolina, whom I have now the gratification to see nigh me on this floor, inquired of me about Doctor Betty—adding, in the course of the conversation, "that the Doctor's friends in Carolina were perfectly aware of the great fortune he had accumulated in that

country by the culture of sugar; and that when he came out last year to pay them a visit, they "particularly admired" the entire simplicity of his deportment and the total absence in his person of that "pride, pomp, and circumstance" which usually attend as ministering handmaids to men of such extensive wealth and revenues. I replied that I had the honor of knowing Doctor Betty, but that I never observed any semblance of regality, nor even noticed any symptoms of opulence beneath his plain but hospitable roof—that at any rate it was not the fashion of folks there to be so very rich. But I said I had it in my power to ascertain precisely what had been the Doctor's achievements in that branch of agriculture, and that I would let him know it. Is this substantially true, sir? [The gentleman to whom the interrogation was addressed assented, and said it was, with some explanations which he would give.] Sir, continued Mr. W., I do not pretend to quote the exact phraseology: in speechifying we sometimes amplify the words of ordinary discourse, but I think I have given the substance of the conversation, though I shall be happy to hear any explanation, and, if I have mistaken any thing, to stand corrected.

Well, sir, I have not yet been as good as my word, and I am happy to have this occasion to fulfil the promise, by conveying to the gentleman the information alluded to.

I hold in my hand an accurate and authentic statement—a paper printed annually at New Orleans—of the quantity of sugar made on each and every plantation of the State during the years 1828 and 1829, the precise years in which Doctor Betty had operated before his last visit to Carolina; and, on referring to the table, I find that in 1828, which was a favorable year, Dr. Betty and his partner made fifty-six hogsheds of sugar; that on the following year, 1829, which was an unfortunate one generally, they made thirty-seven hogsheds, giving an aggregate crop of sugar, for two years, of ninety-three hogsheds—sold at five and a half cents a pound, (and it is not at all probable it averaged that much,) equal in money to five thousand one hundred and fifteen dollars. The estimate of molasses (and it is a liberal estimate) is forty gallons to the hogsheds, which, on the ninety-three hogsheds, gives them three thousand seven hundred and twenty gallons—sold at fifteen cents the gallon, equal in money to five hundred and fifty-eight dollars: now, add this to the product of the sugar, and you find that they have, for the two years, an aggregate crop of sugar and molasses, amounting to five thousand six hundred and seventy-three dollars. Divide the sum between the two years, and it leaves to each year the average partnership crop of two thousand eight hundred and thirty-six dollars and fifty-cents; which, subdivided between the two partners, Dr. Betty's quotient is fourteen hundred and eighteen dollars and twenty-five cents. Now, partly from a munificent disposition, and partly for the convenience of a round sum, let us allow him a bonus of eighty-one dollars and seventy-five cents more—and then he has a gross crop of fifteen hundred dollars per annum! And what comes of the plantation expenses during the time? Why, sir, the crops did not pay them. Nay, I assert it fearlessly that the crops of both years did not pay the expenses of one. Therefore, at the time Doctor Betty last visited his friends in Carolina, he had not made one cent by the cultivation of sugar; on the contrary, he must have been several thousand dollars out of pocket, independently of his original plantation investment: and yet this is the man that was expected to come like some oriental Satrap, with a glittering cavalcade of caparisoned steeds and laced menials; instead of which, he presents himself in simple guise, like any other man travelling to see his friends, and revisit the graves of his fathers; and, as he passes, they exclaim, "see the rich sugar planter, all the way from the banks of the Mississippi; the man who holds in hands the wealth of provinces spoiled to feed his luxuries!" "But," they say, "he does not

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let on; he wishes to be incog. in this respect; he is modest"—and they admire!! Were ever men so insulted in their poverty? This is indeed to feel "the proud man's contumely!"

Now, sir, to what does the argument tend? Is it that, like Doctor Betty, none of us have as yet made any thing on our capital? That it is a hopeless, bootless, sisyphæan task we are all engaged in? No, sir, that is not at all what I mean. Doctor Betty's is a new establishment, not yet brought to the point of productiveness; he hopes that in process of time it may yield him a support. *Di captis asphrate suis*.

All I wish to convey, and on which I insist, is, that the sugar growers of Louisiana are doing precisely as all other persons are, in these times of universal peace and general over production, and not one whit better. On the contrary, it is my religious belief that the condition of most of them is already worse, and is rapidly becoming far more deplorable, than that of either the cotton or the tobacco growers of Georgia or Virginia. And why? Because their occupation is not one-half so expensive as ours. When the cotton or the tobacco planter makes a dollar, it is his, or nearly so; but the poor sugar planter, whose employment, together with agriculture, combines manufacture of the most costly kind, whenever he makes a dollar, is, of necessity, and by a kind of condition precedent, tributary to the rest of you for more than one-half of it. Yes, and in a great, great many instances, he has to remit two to you for every one that he makes. And yet he has no alternative; your productions he cannot do without; he must send you his regular quota of contribution. His crop may fail, or may fall short; expense, horrid expense, still stalks at his heels, and he must raise the wind to satisfy the demands of the fiend, or "give up the ship" at once.

In fact, it is the most idle amusement which can beguile the leisure hours of a man, to sit down to count what sugar planters make. What do steamboats make? What do ship owners make? What do merchants make. What do manufacturers of every kind make? And what do sugar planters make? I will tell you what they make: Like all other persons engaged in branches of industry, hazardous in their nature, and requiring capital for their exercise, some of them, under favorable circumstances, with luck on their side, and with rigid economy and unflagging industry skillfully directed, do make out to get along, and better their condition. There are even some who may be said to have made a fortune at the business, which means that they happened to make a good bargain, to light upon a period of abundant crops, to have lived in the days of high prices, or to have profited by some casual rise in the value of the product—just what is seen in every other part of the globe.

There is another portion of those said sugar planters, and that not a small one, who accomplish nothing in the way of success, but merely drag on, from year to year, a lengthening and galling chain, making not enough to buy what they must buy from you, and to meet the interest accruing on their debt, whatever may be its amount. While others, and they are not so very few, make short work of it—they burst, blow up, and lose all in a short venture. And there they stand, like wrecks along the shore over which the hurricane has swept, to admonish those who, like the gentleman from Georgia, come booming along in fancy's barge, with all the canvas of their imagination out—of the hazards which lie in the path of the thoughtless navigator who adventures on that perilous sea.

If there be any gentleman here who really does desire to obtain an approximation to, and an equation of, what may be made by sugar planting in Louisiana, in its most successful practice, I must refer him, for the information, to the documents transmitted from the Treasury Department, where he will see that the possible profit there

ranges from five to six, or seven per cent. per annum, according to the varying opinions of persons in different parts of the country, between whom there was no concert or understanding, whose estimates were predicated on different bases, and where, of course, property has a different valuation, as it has in different parts of every country beneath the sun.

But I would particularly point him to the tabular statement annexed to the report of the committee of Plaquemine—it is the first on the file—which is the district in the State where the culture has been longest known, and most successfully prosecuted, and where the subject is best understood. They made out the profit, in that district, to be five per cent. and 9-100—that is, a very small fraction more than five per cent. And, sir, it is no fancy-piece of theirs; it is a picture from the real life; a sketch of what has been actually realized in that district for the last five years, when the price of sugar was more than a cent in the pound above what it now is.

I will here take this opportunity to say, in addition, that I had occasion to witness the extraordinary pains—I am well aware that a captious temper may object to those documents—I have actually heard something of the kind intimated, that they proceed from persons engaged in the business, and are consequently but the testimony of interested witnesses. The objection is a convenient one; but I maintain that those documents furnish the best evidence the nature of the case admits of. If you were presolved to believe nothing but your own fantasies, why call for the vouchers? You applied for the information; and I say that I had occasion to witness the extraordinary pains, the incumbent study, with which the well informed, practical men who prepared the Plaquemine report labored to gain the information, and to make it scrupulously accurate in all its details; and, as far as my testimony is worth, I prove here, and to the world, that their names, as well as the names by which the other returns from the State are avouched, afford a pledge of the highest kind of the entire faith which is due to any statement to which they may be appended.

Sir, on this ridiculous theory of our supposed exorbitant profits, I feel as if I had been tempted to dwell too long; yet it was the burden of the gentleman's song, and it is the eternal theme with which my eyes and my ears are assailed, and my perfect knowledge to the contrary offended, whether I cast a glance upon the columns of a certain set of newspapers, or hear it mentioned as matter of discourse; and I could not well do otherwise than I have done.

[Here the SPEAKER reminded Mr. W. that the hour for which the rule had been suspended had expired; when a motion was made further to suspend the rule for half an hour, which prevailed by two-thirds; and Mr. W., after thanking the House for such unusual indulgence, proceeded.]

I will now, said he, most cheerfully turn from the disquisition as to what have been, or may hereafter be, our gains from the culture of sugar, to consider its national importance, and inquire what are, if any, the benefits which have flowed from it to the whole people of the United States.

In casting about in quest of its advantages to the nation at large, I find them to consist chiefly in two respects, which respects are the primary objects for which men have forsaken their woods and their caves, to betake themselves to communities, and form the social compact, viz. to obtain the things necessary to a comfortable livelihood, and which they have to buy at a cheap price, and, at the same time, to find a good market for whatever they have to sell; both which ends, I contend, have been eminently subserved and promoted by the creation of that interest in Louisiana. That the effect of it has been to give to the people of the United States the article of sugar at a

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much cheaper price than they ever would have had it otherwise; and that it has created an invaluable market for all their productions.

And, first, as to the price. Does not the gentleman recollect (I well remember the time) when the general price of sugar throughout the United States was twenty cents the pound? Sir, the day is not very long gone by since five pounds of sugar were considered every where in the cities, at the most accessible points, at Natchez, at New Orleans, as the fair standard equivalent of the round silver dollar. When the thrifty housewife wanted a few pounds of the luxury, she sent her servant to the store with a dollar, expecting, as a matter of course, to receive her sack of five pounds in return. At places inland, where the price was necessarily enhanced by transportation, it was no doubt much more.

In 1815, immediately after the war, the wholesale price of our own products at New Orleans was eighteen or twenty cents the pound. For several years after, it was generally sold at from ten to fifteen cents; and what has been going on since? Why, we have been gradually reducing the price to nine, to eight, to seven, to six cents, until we have now got it down to the freezing point of five cents.

The history of the decline and fall—not of the Roman empire, but what more immediately concerns the people whom I represent—of the empire of the staple by which they get their hard-earned bread, deserves to be looked a little further into.

The authority from which I draw my data, and from which I beg leave to read, is a statement furnished by the firm of Lippincott, Richards, & Co., of Philadelphia, a highly respectable house, auctioneers, and sellers of sugar, and who have been such for a period of time, of which I have no means of tracing the commencement. I will not read the entire document, but restrict myself to one item in each year. The prices are carried out as per hundred weight.

1811, Nov. 6,	54 hhds. sugar,	\$10 30 a 14 30
1812, Sept. 16,	5 hhds. New Orleans,	14 60 a 14 85
1813, Aug. 2,	50 hhds.	22 10 a 22 50
1814, March 26,	90 hhds.	20 00 a 20 75
1815, June 22,	9 hhds. New Orleans,	24 00 a 20 00
1816, April 20,	25 hhds. New Orleans,	15 25 a 16 50
1817, April 2,	46 hhds. New Orleans,	13 00 a 13 50
1818, June 23,	38 hhds. New Orleans,	11 00 a 12 90
1819, June 3,	57 hhds. New Orleans,	11 70 a 12 00

The account is brought no lower down than 1819, but it comes far enough to show, that, from a peace price, varying from ten to fifteen cents, and a war price, ranging from twenty to twenty-four cents, we have got it down, according to the gentleman's own intelligence, to the average price of five and a quarter cents the pound.

Now, I wonder if this simple fact be of no importance to the people of the United States. I think it is of some slight importance. It must be no very inconvenient or uncomfortable thing to every body to have this delicious aliment, this pleasant dulcifier of life, at so very cheap a price as five or five and a quarter cents the pound.

But the gentleman from Georgia is not the man to take upon trust "the goods the gods provide him." While he feels the beneficial effect, it is necessary for him to trace the cause. The mind of man, I am aware, is an active principle, endowed with faculties to range abroad through nature; and, when the breeze of heaven rushes by him, fraught with fragrance and with health, he must needs "list whence it cometh, and whither it goeth;" and he has a right to do so, if he can. *Felix qui potuit rerum cognoscere causas.*

The gentleman accordingly institutes his researches, and finds that, although the price of this once costly luxury has fallen so very low that it might be good policy in

him to buy it to fatten his swine upon, a corresponding declension has taken place in the West Indies. There, he says, it has been bought as low as four cents. Who does not know that? But does the gentleman believe but that we have contributed extensively to that state of things by our competition with those islanders? Does he think that we have not been accessory to the fact of knocking down the price, even in the West Indies? Does he really imagine that the additional supply of one hundred millions of pounds to the great market of the world has not had a powerful agency in bringing the price down—down to what we see it? If not, then I would thank him to inform us whence it is that the price has generally declined just about in the ratio of the increase of the quantity with us; and, *vice versa*, that the price has generally risen whenever the quantity with us has fallen short. No longer ago than last year, 1829, the seasons proved disastrous to us. The quantum of sugar raised in the State did little more, if any thing, than cover the aggregate expenses of the plantations which grew it. We made but forty-seven thousand hogsheads. And what ensued thereupon? Why, the price ranged a full cent or a cent and a half in the pound higher than it does at this time; many crops were sold for more than seven cents: this year, 1830, we approximate to one hundred thousand hogsheads, and down falls the price to five cents.

To me it looks like a proposition too plain for argument to say, that, by the mutual rivalry which has been got up between the insulars and ourselves, the general demand has not kept pace with the rapid increase of the supply: we act and react on each other; and that hence it is you witness this extraordinary depression of the price.

I will put the hypothesis. Suppose that competition had never been fostered in Louisiana, and the elemental principle of those hundred millions of pounds which we now supply had, until this day, been left dormant in the bosom of the untilled earth; and, during all this lapse, the people of the United States had continued to be dependent on the islands for those progressive hundred millions of pounds: does any one fancy he would ever have witnessed that astonishing depression of the price which has occurred? Why, in such a posture of affairs, it is far more probable that the increase of the quantity would not have been equal to the growth of the demand in Europe, and here, in this rapidly augmenting and consuming country of twelve or fifteen millions of people; and, if so, instead of falling, the price would have risen all the while, and you would be paying more for it at this day than at any former period.

Sir, this is not altogether theory. It is not a mere supposititious, problematical case; it is a case sustained by actual observation of what has happened in regard to many other things. I will take, for instance, the article of Sherry wine, which has risen some twenty-five or thirty per cent. within the last few years; a fact which I the rather select, from the supposition that every gentleman here can practically attest it. And why has it risen? From the increased consumption; no other cause can be assigned. You have diminished the duty, and the thing has risen; because, while the demand has been increasing, while the wine has been growing a more fashionable potation, (thanks, perhaps, to the leech who discovered its curative virtue,) there has been no home production to compete with the foreign supply.

Gentlemen say that sugar has become an object of general use—an article of primary necessity to the people: the very strongest reason which, in the common sense of mankind, can possibly be assigned for the encouragement of its production here, in the midst of the people to whom it is an article of primary necessity: the very ground on which all our wisest statesmen have uniformly recommended it, and other things similar in character, to the fostering protection of Government. The reason which prompts



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the gentleman to try and crush the necessary product at home, is the very policy which led France, (it only shows how learned statesmen, as well as doctors, differ,) with colonies capable of furnishing it so abundantly and so cheap, to assess a heavy duty, to encourage its manufacture from the beet, in order that her people, to whom it is as much an article of primary necessity as it is to us, might participate in the labor, and come in for a share of the expenditures which the manufacture requires; and, also, that they might, in part, derive their supply from their own soil, free from the casualties of the boisterous element over which it had to be transported, and secure from the deeds of violence that are constantly done on its surface.

It is an article of primary necessity to the people, is it? Why to be sure it is: and that they knew it to be so, was just what, in 1816, impelled the Congress of the United States to adopt the policy, and place this duty on the footing on which it has stood ever since. And, sir, what portions of the American people were then the freest and the foremost to plight their troth to us, and tempt us to embark our fortunes in the precarious culture? It was the people of Georgia, and Carolina, and Virginia, and Tennessee—the very men who now pursue us with hound and with horn.

In 1816, when the proposal was made on this floor to add one half cent for protection, the representation of Georgia voted for it unanimously; so also did the delegation from Tennessee. The measure was sustained by the wisdom of the Archers, and the Macons, and the Calhouns, as well as by the sapient forecast and reproachless virtue of Lowndes—the very prophets and apostles of your political creed.

And, sir, what was the animating motive with the men of that day? They were groaning under the sense of present burdens, and smarting with the recollection of recent and greater oppression. By resorting to the protective expedient, they sought to palliate the evils to which both they and their people were then so sensibly alive, and to prevent the possible recurrence of woes still fresh in their remembrance. And has not the wisdom of their ways been fully tested by that great assayer of human actions—time? Have we not already done more in their behalf than they ever imagined we could do? From a general average, in all times, of from ten to fifteen cents, and an occasional war average of from twenty to twenty-four cents, we have brought the price down to the average of five cents and a quarter, as stated by the gentleman himself. And what more could the cupidity of any man desire? Is not it enough to gratify the most untoward propensity for cheap?

Yet this very fact of the extreme modicity of the present price is, in part, what calls forth the gentleman's moaning. In his preamble he whereas about the extravagance of the duty in proportion to the price. Now, if the duty be extravagant, in comparison to the price, the converse must follow, that the price is insignificant in comparison with the duty: yet, at the time you saw fit to create the duty, it was but small in relation to the price. And if there be any argument in the preambular proposition, it must be the most inconvenient one in the world; seeing that the more we lower the price, the more we strengthen the argument against us; insomuch that by the time we give him sugar for nothing, (as we seem likely soon to do, if we keep on in the same way,) the argument will be perfectly irresistible.

But go on, and consummate your work. Only fulminate the thunders of your Vatican against us: pronounce your anathema, and bid our factories be still: and go back to the islands of your love, with a new born demand of one hundred millions of pounds: and then send forth your diplomats to sue and entreat, and allude disparagingly to the policy of their own country, and point out wherein

advantages may be gained over it; and eventually, perhaps, strike up a kind of bargain, calculated to place your adversaries on the vantage ground, and drive your poor contemned flag from the ocean. Do this, I say, and you will soon cease to have any cause to complain of the smallness of the price in comparison with the duty; you will soon see a rise of fifty or a hundred per cent. in this country. We shall then see who is taxed and oppressed. Then, in sooth, shall we feel the gripe of the "grinding monopolist," and own, too, the might of the forestalling speculator; from whose fraternity, even at this moment, methinks I hear but one voice, from New Orleans to Boston, calling on you to do the deed of folly, and commit to their tender mercies the exclusive care of supplying your people with the article of primary necessity!

The gentleman, in his speech or preamble, (no matter which, for he intended his preamble as a speech,) talks about the three cents duty, levied on the consumer, as a bounty to the producer, and augmenting the price to each by the amount of duty; and from thence he conjures up his "chimera dire," to bewilder the minds of his people, and "silence the whistle of his ploughmen," about millions of taxes!—taxes which, in nature, in reason, and in truth, have about as much existence as the fabled monster itself, which is but a spurious offspring of a wayward fancy.

He himself demonstrates the idea to be baseless. To begin to make out the proposition, he should have shown that the same quality of sugar sold in the West Indies for three cents in the pound less than at New Orleans. Did he show any such thing? No. Did he even assert it? No; he ventured no direct asseveration about it. But he did hold out an innuendo. Of what?—of a difference of three cents? No, but of about one cent; which at once destroys two-thirds of his position. In New Orleans, he says, the average price is five and a quarter cents, while, in the West Indies, he intimates, it has been bought for four cents.

Bought for four cents! Now, it does seem to me, that if it were at all important, which I conceive it is not, to find how the respective markets stood, a different mode of analysis might have been adopted. If any man of ordinary intellect had been put on the investigation, he would, probably, have deemed it proper to try and ascertain, not what was the average price at one place, and what it had been bought for at another, but what was the average price at both places.

Bought for four cents in the West Indies! Why, I raise no contest at all on that point. I am free to admit that it has been bought for four cents and for two cents. I am sure that I have frequently known our sugars at New Orleans bought for four cents and for two cents, at a time when the general average price ranged a full cent, or a cent and a half, higher than it does now; those, however, were extreme cases of inferior sugar, or sugar sold at a sacrifice.

Since it has so happened that we have gone into some examination as to the respective prices, let us see if we have any means of elucidation at hand. The most convenient source to which I can apply, would be, I think, the report of your own Treasury Department, made some weeks ago, in compliance with a call from this House; moved, no doubt, with no very friendly purpose to the subject, but for which I acknowledge obligation to the mover, seeing it has furnished me with documentary evidence of a fact which I was not aware was so easily to be obtained.

The report contains a statement of the quantity of sugar imported into the United States for a number of years, with its average cost at the places whence imported. I take the period highest our own time, viz. nine months of 1830, and selecting from it the average price of brown sugar, at the several places of its growth, I find the table to be as follows:

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Duty on Sugar.

[H. OF R.]

[Mr. W. here read from the treasury report.]

	Cents.	Mills.
Swedish West Indies, - - -	5	5
* Danish West Indies, - - -	3	3
Dutch West Indies, - - -	5	0
British West Indies, - - -	5	4
British American colonies, - - -	9	9
French American colonies, - - -	4	2
Hayti, - - -	9	1
Cuba, - - -	5	3
Other Spanish West Indies, - - -	4	9
Coast of Brazil, - - -	5	6
Colombia, - - -	6	0
All other places, - - -	6	3

Having thus gained some insight into the average prices in the countries of our vicinity, let us see what news, if any, can be obtained from New Orleans. I read from "Bright's New Orleans Prices Current and Commercial Intelligencer," a paper of undoubted authority, of the 5th February, 1831, head Sugar:

"The demand has abated very much, and we quote at five cents, dull. None but that of very good quality will command that price; to obtain more, the article must be superior in every respect, and at such distance from the city as will suit convenience."

I will also beg leave to read an extract of a letter dated January 26, from an eminent commission merchant in New Orleans, a gentleman well known to many in this House. The letter was not addressed to me, nor written with any reference to such a use, and I owe it to the politeness of his correspondent that I am permitted to read it. He says, "Sugar is down to 4 a 5½ cents."

We thus find that the average price is, in reality, between four and five cents; and that, after all this uproar, this prodigious outcry about three cents in the pound, wrenched from the consumer, as a gratuity to the producer, these three millions of taxes, as a bounty to inflate the pockets of a few planters in Louisiana—in point of fact, the bounty proceeds from the planter, and is enjoyed by the consumer; that it is we who are taxed and oppressed; that we have taxed ourselves—involved into it by your policy—have taxed our time, our industry, our vigils, our capital, to such an extent, that we now supply the cravings of your appetite for less than you can buy the luxury for on the plantations of the West Indies. That we actually do, in a general way, undersell the Swedish and British islands, as well as Cuba, and that we get a trifle more than half the price it commands at Hayti.

Now, by what possible means, by what magic spell, we have ever been able to accomplish so much, is, one would think, a question which, when the physical and adventitious circumstances of the two countries are considered, would puzzle even the facile imagination of the honorable mover himself. The enigma of the sphynx would seem to be a commonplace child's riddle in the comparison. There is but one solution to it, and that is, the all-surmounting energies of American enterprise when induced to exert itself in any given direction.

Sir, what are the relative, natural, and accidental circumstances of that archipelago and of Louisiana? Why, on those genial isles, those ocean gems, the fostering sun beams vertically from January to January. There the plant has the whole twelve months, with twelve more to that if necessary, to mature and concoct its juices. With us it has but six short months to grow—from the last frosts of spring to the first blasts which chill the autumn. They have the livelong year to grind and manufacture in; we can claim but the hurried period of two or three months, which is liable to be abridged. They get their laborers from the banks of the Niger, or the Zaïre,

for about one hundred dollars a piece. We procure ours from the shores of the Chesapeake and its tributaries, and from the gentleman's own Savannah, at four, five, and six hundred dollars. Their ploughmen or their hoemen want no purchased clothing; like our primitive parents, a fig-leaf is the ordinary costume they prefer. Ours are clad at great aggregate expense from the product of your manufactories. For their people they have little or no food to buy; they require none; they are sustained by "the gushing fruits which nature gives untilled." A patch of plantains and bananas, once formed, supports the man forever and a day. Ours are nourished by the costly aliments; the corn, the fish, the pork, which you supply.

And yet, with all these advantages on their side, it is a notorious fact that all the colonies have, of late years been in the most deplorable condition; and it has been an engrossing object with the parent countries to try and devise expedients to uphold and save them from utter bankruptcy; while we, with all our opposing obstacles, contributing, as we have to do, annual millions to the rest of you, have not only brought them down in their prices, but have descended to compete, and do compete, with them, on the level of their own platform. And yet there are gentlemen who still pretend to believe, for I cannot give credit for any thing but pretence, that we are annually coining cent per cent. on the capital we employ!

But, Mr. Speaker, there is one proposition, of the truth of which I feel a deeper sense of conviction than of any other proposition connected with the subject. It is this, that all our inquiries, touching the relative price at home and abroad, can serve no other end than to gratify a mere idle, speculative curiosity; that, if they properly understood the subject, the people of the United States, and especially those of Georgia and Virginia, would scout all such attempts to delude them by phantoms and bugbears, and would perceive that their only motive of interest in looking to the price of sugar at New Orleans should be to watch over it, and keep it up to a standard of fair profit there; that the fifty millions employed in the culture are fifty millions at work for their emolument—with this discrimination from ordinary investments, that you have neither the risk of the capital nor the trouble of the administration. This would fetch me to that part of the subject which relates to the great question of the market; a question of more intrinsic importance than all the rest combined.

Sir, if I were to attempt an exposition of the enormity of the demand which the sugar making creates for the productions of all the people in this Union, from those who dwell on our extreme Eastern seaboard, with their oil and their fish, down to those who live on our immediate confines, with another species of bipedal property, it would require more time than I have consumed in all the other topics put together.

But, sir, my moments are counted: I see the goal beyond which I cannot be allowed to proceed; and I must, therefore, with a view to obtain, not a full description of the subject, but a mere vista leading into the interminable field, again invite the attention of gentlemen to the documents on the table; wherein they will perceive that it creates an annual inland trade of from four to seven millions, and that the balance is against us; that the sugar planters of Louisiana have been actually buying from the rest of the people of the United States, for millions beyond the whole amount of their revenues. It is a fact, not more curious than true; and I only lament that time cannot be allowed to offer some explanation of the seeming anomaly, by giving an account of the sums diverted from other employments, and raised by forced loans, which they have been pouring over your respective lands, creating brisk demands and high prices for every thing you have had to sell. The unvarnished tale might, possibly, vibrate the chord of self-interest in the bosoms of

\* This is the interior Muscovado, which is quite a different article, and does not come in competition with the ordinary brown sugar.

H. of R.]

*Reprinting old Documents.*

[FEB. 26, 1831.]

all, and more especially of those from whom this strange, unaccountable move proceeds: yet I must needs, however loth, pass the subject by.

There was another gentleman, who spoke on this resolution, to whose argument I am bound, from comity, to bestow some notice—a gentleman from Virginia, [Mr. ALEXANDER.] Very little fell from him to require any answer on my part. He admits that the success of this project would materially impair the value of the property of his constituents. That is just what I say; and, therefore, in that respect, there is nothing at issue between us. But he says that, with a full knowledge of the injury it would be to his people, he is induced to advocate the measure, because it depends on a principle.

On a principle? Why, how does that alter the case? Do not we all proceed on a principle?—as well those who vote for the maintenance of duties as those who go for their abolition? The opposite points of the needle, which feel for the opposing poles of the earth, act each on its principle—a great physical principle, impressed by the inscrutable hand of Creation. So, also, in the moral world, the most diverging points of conduct all claim to have a principle to which they tend. Every thing is a principle.

But, sir, there are two principles in the world. There is the principle beneficent, and the principle maleficent. The Hindoos also had their Brama and their Vichenou—one the good principle, the creating and preserving principle; the other the evil principle, the destroying principle. And, sir, each had its votaries, equally ready to hazard all and every thing in its vindication. I had hoped the days of such enthusiasm had gone by.

It is a principle with the gentleman to construe the powers of this Government differently from all the past politicians of his own State—the very men who fought the good fight of the revolution, and helped to build up the frame-work of this republic. It is a principle with me to interpret them as Washington and Adams, and their co-laborators—as Jefferson, and Madison, and Monroe, have done; to say nothing of the patriots of our own days, the monument of whose fame and public services towers too high to be seen by our poor obfuscated vision, filmed by the passion of party, in all that beauty and sublimity of outline which the remove of another generation will impart to the view.

With the gentleman it is a principle to deny to this Government the right to provide for the general weal of its people. With me it is a principle to preserve to it, as far as my feeble efforts may, the powers necessary to secure me in the enjoyment of “life and the pursuit of happiness,” and liberty, too—rational liberty—that which depends for its being on obedience to the law; not that wild, unbridled liberty, the most odious form of despotism, “which knows no master but its mood.”

#### REPRINTING OLD DOCUMENTS.

The engrossed bill making provision for a subscription to a compilation of congressional documents, was read the third time.

Mr. SPEIGHT said he did not know that any thing he could say on this subject would at this time have any avail on the decision of the House. He had little hope that any appeal he might make to the sober judgment of the House would prevent the passage of this obnoxious measure. But a duty which he felt he owed to his constituents, to himself, and his country, forbid his giving a silent vote. Sir, said Mr. S., I can but express my regret that, at this late period of the session, this measure, without attempting to explain its utility or probable expense, should be hurried through the House in this unprecedented manner. He asked gentlemen if this was the usual course for bills containing appropriations to take. Was it not usual for them to go to a Committee of the

Whole, and be there discussed, and a free interchange of opinion take place? He had too much respect for the chairman of the Library committee, who had reported this bill, to even presume he would hold back any information which might be useful in relation to the probable expense to be incurred. It, however, had not been given, and the House, almost at the close of the session, were called upon to adopt a measure which, if carried into effect, would incur an expense of between fifty and sixty thousand dollars—and for what, sir? Why to reprint a parcel of old documents, now in the archives of the House, where any gentleman can command them if he wishes. Sir, continued Mr. S., you have passed pension bills this session, you have pensioned the poor soldier, and the rich soldier, but you are now about to pass a pension law more obnoxious than any heretofore passed. You are about pensioning two printers in this city, whom you have heretofore discarded from your confidence. Yes, sir, you now propose to give them a job equal to the printing for Congress ten years. These printers, Messrs. Gales and Seaton, who, two years ago, were discarded from the confidence of the House on account of their political principles, are now to be taken in preference to all others, and given this job as an annuity or pension; and for what, sir? Could any gentleman tell what this pension is for? Is it because they have and are daily vomiting forth pollution or abuse of Andrew Jackson and his administration? He asked gentlemen if these printers were not using every means in their power, just and unjust, to bring this administration into contempt. He could only express his regret to some of the friends of the administration, in the ranks of the opposition, lending their sanction to a measure which would effectually give it a stab. Why, sir, is it that Gales and Seaton are selected in preference to all other printers to do this work, if it is expedient to effect it? Why not have it discretionary with the Clerk of the House to employ those who would do it the cheapest? Is there not on your table a proposition to print these documents, and let you take them at your own price. When they should be printed, the House could judge of their value. He was admonished that the time of the House was precious. He rose only to do what he considered his duty. It did seem to him that the House were about to take a step which would not by any means meet the sanction of the people. He wished his constituents to see his vote. He asked for the yeas and nays.

Mr. DRAYTON said, to decide upon the passage or rejection of this bill, it appears to me that we should determine, 1st, whether the documents proposed to be published, are such as we stand in need of in the discharge of our legislative duties; 2dly, whether, supposing this to be the case, we have the legitimate power to procure them. The documents referred to comprehend those State papers of the Executive and its departments, and those reports of both branches of Congress, which are of peculiar importance, from their throwing light upon the principles of the interior and exterior policy of our Government during the long interval which elapsed from the adoption of the federal constitution to the year 1813. The contents of these papers are known but to few. Of many of them there are but two or three copies extant, and others of them are only to be found in manuscript, in the possession of a small number of persons. Surely the records of the United States, upon subjects which ought to be familiar to every Senator and Representative, should be easily attainable; and yet the reverse is notoriously the fact. With in my own limited experience as a member of a committee of this House, it has occurred to me, upon several occasions, to make fruitless exertions to obtain documents relating to an early period of our Government, which would have aided me in the performance of my duties. These impediments in our way ought to be removed; and should this bill become a law, they will be effectually removed.

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Reprinting old Documents.

[H. OF R.]

Should it be rejected, we must, to a certain extent, be deprived of the benefit of the labors of those who have preceded us, and be less competent to execute those which devolve upon ourselves. The constitutional power to make an appropriation of money for these documents, I think we clearly possess. We have a right to resort to the necessary means to enable us to discharge the duties which are prescribed to us as legislators. Without information upon a variety of questions which engaged the minds, and a variety of facts, the investigation of which occupied the time of our predecessors, we should frequently be deficient in the knowledge requisite to direct our judgments. This evil will be increased by delay. We should, therefore, apply the remedy whilst it is in our power to do so. I have always been opposed to appropriating money for books to be distributed among the members, which could be purchased at the book shops; but a work like this under consideration will never be undertaken without the aid of Congress. Our right to have these documents published, stands upon the same footing as ordering to be printed an additional number of the Executive messages, or congressional reports—a right which has been acquiesced in without a single dissentient voice.

It has been said by gentlemen, that, admitting the propriety of having executed what this bill contemplates, the expense incidental to it will be enormous—that the selection of what is to be printed, is left to the unlimited discretion of the Secretary of the Senate and the Clerk of this House, who may sanction the publication of useless trash, so as to increase the number of volumes, and to augment the cost far beyond what we should feel ourselves justified in appropriating. I can only reply to these arguments, that I am informed by the most respectable authority, that the expense cannot exceed \$30,000, and that the bill sufficiently guards against the other objection of abuse of authority in the officers of this and of the other House. The Secretary of the Senate and the Clerk of the House of Representatives will be bound by the respect which they owe to themselves, and by the obligations of their official responsibility, to perform faithfully the trust which is confided to them. If the publication be provided for, these officers are best qualified to superintend and direct it. We have elected them to the situations in which they are placed—they have discharged the duties assigned to them with ability and integrity, and their repeated elections manifest that the opinions which we originally entertained of them, have remained unimpaired. Is it reasonable, then, to suspect that they will fail to execute what is required of them, without any temptation from interest, and with the means in the Representatives of detecting any treachery or impropriety in their conduct?

Gentlemen have also urged that we ought not to pass this bill, because the effect would be to confer a lucrative employment upon those who are hostile to the administration. The press is free. The individuals alluded to are as well entitled to express their sentiments as I am to express mine. Their opinion may be correct, and mine wrong, or the reverse may be the case. However this may be, I would never inquire to what party any one was attached who proposed to enter into a contract for printing our proceedings. My sole inquiries would be, whether he could execute it with fidelity, and for a just compensation. Satisfied upon these points, I should regard it as a proserption which ought not to be tolerated in a free and enlightened body, to reject his application because his political opinions were at variance with those of the majority. If our votes are to be influenced by such a motive, to talk of the liberty of the press would be a delusion and a mockery.

Mr. WAYNE also advocated the passage of the bill; and Mr. POLK and Mr. YANCEY warmly opposed it.

Mr. DAVIS, of Massachusetts, then said he desired to state the reasons which would influence his mind in the vote he was about to give, for gentlemen had made such broad and unqualified assertions, that his motives might be misunderstood if he gave that vote silently. The gentleman from North Carolina, [Mr. SREIGHT,] and the gentleman from Tennessee, [Mr. POLK,] had deprecated the passage of the bill in language censorious and reproachful to a very large portion of the House, for they had declared that, under the pretence of printing old musty documents, we were about to pension the printers of a public newspaper opposed to the administration. If, Mr. Speaker, I viewed this matter as those gentlemen declare they do, I should most certainly unite with them in defeating the bill, for they cannot more earnestly deprecate such a motive than I do. A pension to printers of a newspaper, and for what? For nothing. We are charged with an intention to thrust our hands into the treasury, and to abstract from it the funds of the nation, to gratify a spirit of wastefulness. Sir, the charge is one of grave import; and let us look at the facts, and see whether we are about to abuse the confidence of our constituents in this reckless manner. Gentlemen speak of the proposition as if it were new, but it has been brought before the two Houses repeatedly within the last four years, not by special legislation, but by our regular standing committees, who have examined into the matter, and have laid the facts before us, by which they were brought to the conclusion that the public good called for the measure. They tell us, that by fire, and from other causes, the documents of several years are so out of print, that the Government has not a copy for its use; that of some years we have a single copy, of others a few. They, therefore, come to the conclusion that a reprint is necessary. The proposition is to publish only such as are of public importance, and may be useful to the several branches of the Government, in performing its arduous and complex duties. Who does not know, sir, that those documents contain matter most deeply interesting not only to the Government, but to this great, free people? for they contain the thoughts, reasoning, and principles of the men who have been called to administer affairs through a long series of years. They contain much of our civil and political history, which ought and will be preserved, if we place a proper value upon the experience of the past. This Government, sir, has its foundations in the public will; and if we wish it to strike deep into public affection, and to be cherished and upheld, the public must understand not only its operations of to-day, but its history. Its records must not be confined to the files of this hall, where none but members can have access to them, and not even they, for useful purposes; but they must be published to the world, that the wisdom and the experience of the past may enlighten and guide us in the future. We have nothing to conceal from the public, and should not grudge a little of the public money, when it goes to aid the cause of liberty, by diffusing abroad a knowledge of the principles upon which our Government rests, and by establishing it more firmly in the hearts of the people. But it is said by a gentleman from Kentucky, [Mr. WICKLIFFE,] that we have no need of those documents, for he never seeks for one which he cannot find. Sir, this may be true, though many others have not been so successful in their researches. Is it enough, sir, that we have files of the papers which are sent into, or originate in this body. If the gentleman means so to be understood, I call on him to explain to me the reason why we are annually paying such large sums of money for printing to the public printer. Why do we have a public printer? If the mere fact that we have a copy of a document on file, which may be consulted, is a good reason for not multiplying copies, the argument would prove that we need no public printer, and the pay to him is a waste of public treasure; and yet the

H. of R.]

Death of Senator Noble.—Indian Question.

[FEB. 28, 1831.]

reasoning of the gentleman has failed to convince himself of this.

The gentlemen assert that these documents, though once printed for use and preservation, are not wanted; and yet one of them has called for the second reading of a letter addressed to you, sir, by Mr. Green, the public printer, and presented to the House yesterday morning. The reading of this paper could not have been demanded for the purpose of showing what has been put forth as the main allegation, that the documents are not useful or not demanded by the public, for this individual states his belief that an edition might be disposed of to States, public institutions, &c. so as to pay the publisher without asking aid from Congress. The gentleman from Kentucky [Mr. WICKLIFFE] says he believes he understands this, and has no doubt, when the work is published, Congress will be solicited to take some copies of it. I entertain the same opinion, for we cannot get on well without them. I therefore would not delay, to see whether this proposition is executed, and run the hazard of having it executed to our satisfaction, but would proceed at once to the business, and have the publication made under the care and supervision of our own officers, the Secretary of the Senate and Clerk of the House, as the bill provides; and if there be more copies than we have occasion for, we may easily dispose of them if the public printer is right in his opinion about the demand for the work. I think, sir, on a full view of the facts, that no reasonable doubt can be entertained of the propriety of publishing these papers anew, for the convenience of Congress and the public good demand it. An objection, however, has been made to the manner of doing it. Gentlemen ask why certain printers are designated in the bill; and there, probably, lies the great obstacle with some to the measure. We have been asked, in the apparent spirit of triumph, in the course of the debate, why are not proposals made for the lowest bidder, that we may have the benefit of competition? Sir, the bill authorizes the Clerk to subscribe for a certain number of copies, the price of which is not to exceed what we pay for the public printing. Now, I would ask in turn, if this mode of setting contracts up at auction be wise, why do we elect by ballot a public printer? Why is not that work set up for the lowest bidder, instead of being regulated by law? If I am not misinformed, men can be found, nay, men have actually made proposals, who will take it for less than the law allows; but the experience of Congress has produced the conviction, that work done by speculators is less likely to be done faithfully and with despatch, than when it is put out at a reasonable and just compensation. The rule which applies to the public printing applies to this business. It should be made under the immediate supervision of our own officers; and I can see no reason why the price should be complained of, when its maximum can never reach above what we pay the public printer. I do not feel at liberty to neglect a duty which Congress is called upon, in the most imperative manner, to perform, any longer. The publication is identified with the history, progress, and principles of this Government, and all who feel an interest in its preservation and success must acknowledge the necessity of saving the lights of experience, not only to guide us, but all who may come after us. I would not so soon forget the works of the fathers of the country, nor suffer them to be buried with their authors.

The previous question was then moved by Mr. PETTIS, and was sustained by the House.

The previous question, that is, Shall the main question be now put? was, on the call of Mr. SPEIGHT, taken by yeas and nays, and carried—107 to 77.

The main question, on the passage of the bill, was then put by yeas and nays, and carried as follows:

YEAS.—Messrs. Archer, Arnold, Bailey, Barber, Barbour, Barringer, Bartley, Bates, Baylor, Beckman, Bu-

chanan, Burges, Butman, Cahoon, Chilton, Clark, Condict, Cooper, Coulter, Cowles, Craig, Cranc, Crockett, Creighton, Crowninshield, John Davis, Denny, Dickinson, Doddridge, Drayton, Dudley, Duncan, Dwight, Eager, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Finch, Forward, Gilmore, Grennell, Gurney, Hawkins, Hemphill, Hodges, Hughes, Hunt, Huntington, Ingersoll, Johns, R. M. Johnson, Kendall, Kincaid, Leiper, Letcher, Martindale, Mercer, Mitchell, Muhlenberg, Pearce, Pierson, Ramsey, Randolph, Reed, Richardson, Rose, William B. Shepard, Semmes, Sill, Ambrose Spencer, Stanbery, Sterigere, Henry R. Storrs, William L. Storrs, Strong, Sutherland, Swann, Swift, Taliaferro, Taylor, Test, Tracy, Vance, Varnum, Verplanck, Vinton, Washington, Wayne, Whittlesey, C. P. White, E. D. White, Wilde, Williams, Wilson, Wingate, Young.—98.

NAYS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Armstrong, Barnwell, James Blair, John Blair, Bockee, Boon, Borst, Brodhead, Brown, Cambreleng, Carson, Chandler, Claiborne, Clay, Coke, Coleman, Conner, Crawford, Crocheron, Daniel, Davenport, Warren R. Davis, Desha, De Witt, Draper, Earll, Findlay, Ford, Foster, Fry, Gaither, Gordon, Hall, Halsey, Hammons, Harvey, Haynes, Hinds, Holland, Hoffman, Howard, Hubbard, Ihrie, W. W. Irvin, Isacks, Jarvis, Cave Johnson, Kennon, Perkins King, Adam King, Lamar, Lea, Leavitt, Lecompte, Lent, Lewis, Loyall, Lumpkin, Magee, Thomas Maxwell, McCreery, McCoy, McDuffie, McIntire, Miller, Nuckolls, Overton, Patton, Pettis, Polk, Potter, Rencher, Roane, Russel, Sanford, Aug. H. Shepperd, Shields, Speight, Richard Spencer, Standefor, Stephens, Wiley Thompson, John Thomson, Trezvant, Tucker, Weeks, Wickliffe, Yancey.—93.

Mr. McDUFFIE moved to suspend the rule, to enable him to make a motion to discharge the Committee of the Whole from the resolution to amend the constitution relative to the election of President, it was understood, and bring it into the House, but there were not quite two-thirds in the affirmative, and the motion was lost.

Adjourned.

MONDAY, FEBRUARY 28.

#### DEATH OF SENATOR NOBLE.

A message was received from the Senate by their Secretary, notifying this House that the honorable JAMES NOBLE, a Senator of the United States from the State of Indiana, died at his lodgings in this city on the 27th instant, and that his funeral will take place this day at half past eleven o'clock A. M. Whereupon,

Mr. TEST moved the following resolution, viz.

*Resolved*, That the members of this House will attend the funeral of the honorable JAMES NOBLE, late a member of the Senate from the State of Indiana, this day, at the hour appointed; and as a testimony of respect for the memory of the deceased, they will go into mourning, and wear crape round the left arm for thirty days.

This resolution was agreed to unanimously.

On motion of Mr. VANCE, it was then

*Ordered*, That, for the purpose of attending the funeral of the late Senator NOBLE, the House will take a recess until three o'clock P. M.

And then the House adjourned to three o'clock.

THREE O'CLOCK P. M.

The House resumed its session according to adjournment.

#### INDIAN QUESTION.

The House resumed the consideration of the memorial from Massachusetts, presented on the 7th instant by Mr. E. EVERETT, and the motion made by Mr. EVERETT on the 14th instant, that the said memorial be referred to the Committee on Indian Affairs, "with instructions to report



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*The Cumberland Road.—Indian Treaties.—Indian Affairs.*

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a bill making further provision for executing the laws of the United States on the subject of intercourse with the Indian tribes; and, also, for the faithful observance of the treaties between the United States and the said tribes."

Mr. BELL was entitled to the floor; but he being absent, in consequence of indisposition,

Mr. SUTHERLAND said that he had prepared himself for the discussion of this subject, and believed that he had it in his power to submit some views of it, not offered by any other gentleman; but inasmuch as no legislative action could grow out of a decision of the pending question at this late period of the session, and as the further discussion of it would consume time necessary for the transaction of other important business, he would forego his own desire to deliver his views on it, and move that the resolution be laid on the table.

Mr. POTTER moved that there be a call of the House; which was refused, by yeas and nays, by a large majority.

The question was then put on the motion of Mr. SUTHERLAND, and carried by a large majority, by yeas and nays.

The engrossed bill allowing the duties on foreign merchandise imported into Pittsburgh, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places, was read the third time, and passed.

[When this bill was under consideration on Saturday, a long discussion took place, in which Messrs. CAMBRELENG, CARSON, HUNTINGTON, WICKLIFFE, INGERSOLL, RICHARDSON, HOWARD, and WILDE, participated. A motion to lay the bill on the table was lost—the previous question was demanded and sustained—and the bill ordered to be engrossed, and to be read a third time.]

#### THE CUMBERLAND ROAD.

Mr. VINTON, from the Committee on Internal Improvements, to which was referred the bill from the Senate, entitled "An act declaring the assent of Congress to an act of the General Assembly of the State of Ohio," hereinafter recited, reported the same with an amendment, affecting the tolls and exemptions from tolls on the Cumberland road; which being read, a considerable debate arose; and, after the debate had continued some time,

A motion was made by Mr. SUTHERLAND, that the further consideration thereof be postponed until to-morrow. This motion was decided in the negative.

The question was then put, that the House do agree to the amendment reported to the said bill, and decided in the negative—63 to 80.

Another amendment was then proposed to said bill by Mr. ANGEL; when

The previous question was moved by Mr. STANBERRY, and being carried,

The main question was put, viz. Shall the bill be read a third time? and passed in the affirmative without a division.

#### INDIAN TREATIES.

The House proceeded to the consideration of the bill to carry into effect certain Indian treaties; and the amendments reported from the Committee of the Whole House on the 25th ultimo were read, and concurred in by the House.

Mr. McDUFFIE renewed the motion made by him in Committee of the Whole, to insert an appropriation of eighty thousand dollars for carrying into effect the Choctaw treaty lately ratified by the Senate.

Mr. STANBERRY objected to this, because the appropriation of last year of five hundred thousand dollars would cover this object; and a long debate arose on the subject, in which Messrs. LUMPKIN, STRONG, WILDE, POLK, McDUFFIE, WAYNE, WICKLIFFE, CAMBRELENG, LEWIS, YANCEY, and TAYLOR, joined. The amendment was modified, on the motion of Mr. TAYLOR, and was

agreed to; and the bill was then ordered to a third reading.

Mr. DRAYTON moved that the House take up the bill making appropriations for the Engineer and Ordnance Departments, &c.; but Mr. McDUFFIE opposed the motion, as there were items in the bill which he could not agree to, and the others were immaterial; and the motion was negatived.

The House proceeded to the consideration of the bill making appropriations for building lighthouses, lightboats, beacons, and monuments, and placing buoys; and the amendments reported thereto from the Committee of the Whole House on the 25th ultimo, were read, and concurred in by the House.

Mr. YANCEY asked for the reading of the bill, but it was objected to, and refused.

Mr. DRAPER demanded the yeas and nays on the third reading of the bill, but they were refused; and,

After Mr. YANCEY had made some remarks against the bill, it was ordered to be engrossed, and read a third time.

#### INDIAN AFFAIRS.

The House proceeded to the consideration of the bill making appropriations for the Indian Department for the year 1831; and the amendments reported thereto from the Committee of the Whole House on the 17th instant, were read, and concurred in by the House.

A motion was made by Mr. BATES, of Mass., further to amend the said bill, by adding thereto the following as an additional section, viz.

"And be it further enacted, That the annuities to the Indian nations or tribes shall be paid hereafter in the way and manner they have usually been paid since the grant thereof, or until the said nations or tribes, respectively, shall, in general council, otherwise direct."

Mr. BATES said he offered this amendment in Committee of the Whole, and in deference to the wishes of the Committee of Ways and Means; and, upon the assurance that an opportunity should be afforded in the House, he forbore then to state the grounds of it. At this late hour of the day, and late day of the session, said Mr. B., I will confine myself strictly to the point, because I do not intend to afford the slightest apology or occasion for a demand of the previous question, as I wish to obtain the judgment of the House distinctly upon the proposition involved in the amendment proposed.

Since the foundation of the Government, said Mr. B., the practice has been one and undeviating—that of paying these Indian annuities to the nations, and not to the individuals composing the nations. This Government has never intermeddled with the disbursement or distribution of them. Sometimes they have been applied by the natives, partly for the support of their Government, for the maintenance of their schools, the purchase of agricultural implements, or for any other purpose which was most pleasing to themselves. The annuity to the Cherokees has latterly been paid into the public treasury of that nation; the annuity to the Creeks has been paid to the headmen of the different towns; and the annuities to the other nations have been paid in the way and manner they thought proper to direct.

In June last an order was issued by the Executive, reversing this ancient and uniform practice. I will send the order to the Clerk, and thank him to read it. It is as follows:

DEPARTMENT OF WAR,  
18th June, 1830.

Sir: The President directs that the practice of paying annuities to the treasurer of the Cherokee nation shall from henceforth be discontinued; and that, with a view to secure to the mass of the nation their proper proportion of such annuity, the same shall be hereafter to be paid in every case to the individuals respectively entitled; that is to say, to the chiefs and warriors and common Indians, and their families, in the ratio in which these several classes are entitled; where there are Indians without families, the payments are to be made to

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them personally, and not to their chiefs. This mode of distribution is not, under any circumstances, to be departed from.  
I am, &c.

P. G. RANDOLPH,  
Act. Secretary of War.

To Col. HUGH MONTGOMERY,  
Cherokee Agent, Calhoun, Tennessee.

This order was not confined to the Cherokees, but, in terms, was issued to the other nations. In January last, the Cherokee delegation were informed by the War Department, "that the order referred to is not applicable to the annuities of their nation exclusively, but to those of all other tribes entitled to them."

To say nothing of the difficulty arising from the ambiguous phraseology of this order, the House perceives at once that it takes from the Indian nations the right, and assumes the burden, of distributing the Indian annuities. It makes them—chiefs, warriors, and all—the mere passive recipients of your bounty, in such proportion as the Executive may see fit to dole out to them.

But, in the first place, I would respectfully inquire, how is this order to be executed? Among whom are the annuities to be distributed? Are females to be included? Or if only males, males of what age? What is to be the ratio of distribution? The order says, "to chiefs, warriors, Indians with families, and Indians without families." Is the chief to have more than the warrior? the warrior than the Indian? or the Indian with a family more than the Indian without a family? In fixing the ratio of distribution, is rank or property to be taken into the account? Whatever course is pursued, by reason that some must die and some will be born, the House perceives that at least an annual census will be indispensable: for if these annuities are due to the people individually, and not to the nation, exact justice must be done to each. Well, sir, this somewhat difficult preliminary business being settled, let me suppose the day of payment to have arrived. The amount of the annuities exceeds by a fraction two hundred and forty-five thousand dollars. The annuity to the Cherokees is between six and seven thousand. If the distribution be made according to numbers, without reference to rank, property, or condition, each Cherokee will receive about forty cents as his share.

The annuities must, therefore, be paid in silver or copper coin, the transportation of which will be a heavy expense. The territory of the Cherokees does not vary much from two hundred by eighty miles in extent, and the agency is established in the northwest corner of it. Now, sir, let me suppose that the agent, Colonel Montgomery, has received his money, and, with his wagon or mules laden, is on his way, making his annual visitation to each member of the tribe. Perhaps it is not too much to say that he will need a guard, by night at least, if not to protect himself, to protect his treasure. But I shall be told that this is not the plan; that the agent is not to go to the people, but that the people are to come to him. Well, sir, be it so. At the time appointed, the Cherokees come to the agent, at his agency house, some of them a distance of two hundred miles—upon an average, near one hundred. Now, the first thought that occurs to the mind is, that a single share—forty cents—will not pay the expense of the journey, much less the loss of time in making it. The next is, that, for such a numerous, and, I may add, troublesome and dangerous assemblage of men, extensive provision must be made, which will add another item to the present enormous amount of our Indian appropriations. But to proceed. Few of the Indians except those who have had intercourse with the whites, have more than one name, and that has reference frequently to some living or material object. There are, for instance, many whose name, in English, means racoon, or fox, or bird. Now, sir, I will suppose that all of the same cognomen come at the same time to receive their portions of the annuity: there are three or four hundred racoons. The agent pays the

senior. What sort of a voucher is he to take? The Indian cannot write: he can make the racoon mark—that is all. The others come on in succession; and, before the payment is half closed, those whose business has been despatched, disguised by new paint and new ornaments, return. Then another class, still, who have become entitled since the last census, and for whom there is no money. And then come the children of those who have died since the last census, claiming their fathers' share, and each child his share of that share. After the racoons, then come the foxes, and the birds, and all the other living things, or material objects. I venture to say that the Secretary himself, before half meridian, would throw down his money bags, and be off for Tennessee. What is to protect the agent from endless imposition? or the Indians from endless frauds? How can the agent make the payments? or, if he can, how produce the requisite vouchers? It is a plan expensive and troublesome to us; vexatious and ruinous to the Indians. This order makes the annuity a debt due to individuals: you must, in justice, therefore, see it paid to them. Hence we shall have a new class of private claims upon this Government, outnumbering all others.

But, sir, I deny the right of the Executive to make this order. These annuities are debts due to the Indians—not gratuities. They are debts for which you have the value received. You owe them. Your relation to them is that of debtor, not master. They are not only debts, but they are debts due to nations. They are recognised as such by every treaty—not as debts due to individuals, but, in terms, to nations. They are debts due nations who have a Government of their own, and want not our interposition in their affairs. The Cherokees, the Creeks, and Chickasaws are well known. The Secretary of War tells us that, in the Choctaw nation, "there are three divisions, each of which is governed by a chief, who, within his limits, acts independently of the others. In his Government he is aided by minor and subordinate chiefs, called captains, each of whom acts, within his particular sphere, distinct. The people are subordinate to the captains, the captains to the chiefs." And all the other nations have a Government of some sort—such as they choose—one that satisfies them—and this should satisfy us. Now, sir, I demand, by what right do we undertake to say that these annuities shall be paid to individuals? Might we not as well have said that the purchase money of Louisiana should be paid to the citizens of France? Or may we not as well now say that the debts due the States of this Union shall be paid, not to the order of the Government, not into the State treasury, but directly to the people? And let but the Executive send agents and subagents enough into the States, and they will find among the ignorant, the disaffected, the servile, and the sycophantic, those who will approve the measure, and, if need be, implore it. Sir, you have no right, but the right of the strongest, the right of him who puts hand upon the hilt of his sword for his proof. You have the power—the "giant's power"—that is all. Will the House hear the opinion of Mr. Jefferson upon this subject? In 1808, he spoke to the chiefs of the Upper Cherokee towns as follows:

"You complain that you do not receive your just proportion of the annuities we pay your nation—that the chiefs of the lower towns take for them more than their share. My children, this distribution is made by the authority of the Cherokee nation, and according to their own rules, over which we have no control. We do our duty in delivering the annuities to the headmen of the nation, and we pretend to no authority over them, to no right of directing how they are to be distributed."

These are the correct principles upon this subject, of which one would think the practice of this Government for forty years, independent of the terms in your bond, would be satisfactory proof as of the wisdom of which it has been a continued illustration.

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I might stop here, but I should do injustice to the claims of the Indian nations if I were to omit to state briefly the effect of this order upon them. I will not speak of its object. It is known to this House, to the country, and to the world, that the Cherokees are engaged in a most unequal conflict for their existence as a nation. They claim of the United States the execution of the Indian treaties which guaranty to them protection, and the execution of the intercourse law of 1802, in which the provisions of those treaties are embodied. Georgia has decided that these treaties, as also the law, are unconstitutional and void. The Executive has confirmed that decision, and refuses to execute them. Thus the Cherokees are abandoned to their fate. In order to try this important, and to them and to us interesting and momentous question, the Cherokees, in a case in the courts of Georgia, in which one of the tribes was put on trial for his life, for an offence committed within the jurisdiction of the Cherokee nation, caused those treaties to be pleaded, which, if constitutional, ousted Georgia of her jurisdiction of the case, and turned the criminal over to the courts of his own nation, to be punished according to the laws of his own people. The courts of Georgia decided that the treaties were unconstitutional, and condemned the prisoner to death. To bring the question under the revision of the Supreme Court of the United States—a constitutional question arising under the treaties of the United States, and therefore most appropriately to be examined and decided there—a writ of error was brought, according to the provisions of existing law, of which Georgia had notice, and which Georgia defeated by executing the Cherokee. This execution was against law, if there be any force in the Indian treaties, or in the intercourse law of 1802. Thus defeated by such an act, the Cherokees have applied to the Supreme Court for an injunction against Georgia to stay her hand. Now, permit me to pause here for a moment, and inquire, had the Cherokees declined this forum, and refused to submit this question to its decision, would not the world have said it was because they had no confidence in the justice of their cause? And yet the Cherokees might well have answered—we hold your treaties, for which we have paid you—we have parted with our land, and you hold it by virtue of them. Down to these disastrous times you have always considered them as valid, and acted upon them as valid. The Supreme Court is alien to us; we had no agency in its formation—can have no influence with nor control over it: its interest and bias will be in favor of your people, and against us. All this they might have said. Yet, in the strong confidence they feel in the truth and justice of their cause, and in the integrity, the honor, and independence of the court, they seek this reference of the question, and Georgia—declines it! Nay, she insists upon the exclusive right, in virtue of her State sovereignty, to settle this question finally and irreversibly for herself, and by her own courts, the judges of which are elected periodically by her own citizens—are imbued, I will not say inflamed, with her own feelings—swayed by her own interests, having a common share in the wheel of the lottery that is to make partition and distribution of the spoils of the nation at their bar, and against which the treaties and the laws they annul are the only interposing barrier and defence.

Against this, the Cherokees, in their weakness, can only protest, and they do protest, and claim either the execution of the treaties, or a decision of your own court upon their constitutionality. The Executive refuses the one, and Georgia opposes, and will, if possible, defeat the other. In this anomalous condition of things, it became necessary for them to employ counsel, and to incur many and heavy expenses; and when their delegation left for Washington, the Legislative Council of the Cherokee nation gave them authority to draw for such part of the annuity due from the United States, as the exigency of

their case might require. I have the order before me; there is no question as to the power. They did draw, and payment was refused, and still is refused, by the Executive. At the same time, the Creek delegation have been paid so far as they needed for their expenses, and so far as the nation owed for the education of the Creek children “upon Colonel Johnson’s farm in Kentucky.” But even the Creeks, as I am well informed, were refused, until assurance was given that they were not here co-operating with the Cherokees. The House, therefore, perceives that this order cuts off, at once, the resources of the Cherokees, and as far as this Government can do it; and, at this crisis of their affairs, takes from them the means of defence, and denudes them for sacrifice. The further effect of this order will be to create a severalty and individuality of interest throughout all the Indian nations, that will weaken the mutual dependence and destroy the subsisting harmony among chiefs, warriors, and people; bringing the agents and subagents of the United States into contact with every individual native, and affording them an opportunity, if they shall be base enough, to use it, to distract, confound, and break them up forever. I beg the House, therefore, to consider the nature and extent of our obligations to these tribes, and whether it is not due to justice, and to our own honor, if nothing be due to them, to interfere in their behalf, at least so far as this amendment goes.

I have thus spoken briefly of the tendency and effect of this order. Allow me to inquire, in conclusion, what necessity or occasion there is for it. The Secretary has given us the rules by which his department is governed. Some of the Choctaw nation, not satisfied with the late treaty, undertook to depose one of their chiefs, and to elect another. They gave notice to the War Department of what they had done. The Secretary informed them that “this Government means not to interfere with their manner of self-government—it cannot recognise what has been done by a few; when chosen by a majority of the division, and that fact certified by their General Council, the chief will be recognised.” Very properly the Secretary here says, that the complaints and acts of individuals cannot be regarded, and nothing short of the doings of the nation in “General Council,” duly “certified,” will form a proper basis for the action or interposition of this Government.

The opinion of Mr. Jefferson, which I have quoted, is to the same effect. Whatever complaints, therefore, may have come from individuals, or from agents or subagents this order was not issued in consequence of them. But, so far as the Cherokees are concerned, I have it in my power to say, and to prove, that no complaints have been made. In July last, the 12th day, Colonel Montgomery, the agent, understanding “that there was to be a special meeting of the General Council of the Cherokee nation,” enclosed to the chiefs a copy of the order of June, with a request “that the necessary arrangements be made by the nation for the future reception of the annuities, so that each Indian might get his share, agreeably to that order.” On the 17th July, “the representatives of all the people of the Cherokee nation, convened in General Council,” answered: “That the United States stood bound to pay the money to the nation, and not to the individuals of the nation.” As to its future reception, they say “that the nation has already made the arrangement for that in its constitution and laws; and to them the agent is referred.” That arrangement is, that the annuities shall be paid into the treasury for the use of the nation. And they enter “their solemn protest against the distribution of the annuities, in the way contemplated by the Government, as a violation of the letter and spirit of the treaties subsisting between the United States and them,” and decline making any further or other order. Of all this the agent had notice; but not knowing what complaints

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*Surveys, &c.—Duty on Sugar.—National Road in Ohio.*

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might have been made, the delegation addressed a letter to Colonel Montgomery, the resident agent of the United States in the Cherokee nation; to which, under date of September 20, 1830, he replies: "I will state that no complaints have passed through me to the Executive, or any other person, either from the Indians, or any other person, on the subject of the distribution of the annuities." I hold the letter in my hand. Now, sir, what reason can be assigned to justify the order of June last, or a persistence in that order? I am unable to perceive any reason for it, which will bear the scrutiny of this House. It is a wide departure from the ancient, established, and beaten way of this Government—a way safe and convenient for us—a way familiar to the Indian nations—without their consent, certainly, the only right way. I will only add, in recapitulation, that it will be difficult, if not impossible, to execute the order. That this Government has no right to issue such an order; that it will be prejudicial to the Indian nations, and particularly the Cherokees—malign in all its influences—and that it is uncalled for by any new exigency, or by any one Indian tribe, and is unjustifiable upon any principle consistent with our obligation, our convenience, or a just economy in the management of our Indian affairs.

Mr. POTTER, of North Carolina, replied at considerable length to Mr. B., and to the speech of Mr. EVERETT, on the subject; and submitted his views on various topics connected with the character and proceedings of the House, &c.

Mr. BATES again rose; but

Mr. BUCHANAN obtained the floor, and said, that at the last session of Congress he had prepared himself to discuss what has been called the Indian question. He was then called home before he had any opportunity of presenting his views upon this subject. He had again prepared himself to discuss this question at the present session, and was now ready to proceed with his argument. He believed that the act of the last session was dictated not only by the purest principles of policy and humanity, but that it presented the only means of preserving and perpetuating the unfortunate and interesting children of the forest, who had so many claims upon our protection. He had the vanity to think he could present some new views upon this subject. But the hour was now late, and there were several important bills upon the table, which, unless they could pass the House, and go to the Senate this night, would be lost. He would therefore forbear; and for the first time, as he believed, since he had been a member of this House, he would move the previous question.

The previous question was sustained, and the bill was ordered to a third reading.

Mr. LAMAR now moved an adjournment. Negatived.

The House proceeded to the consideration of the bill making an appropriation for a custom-house in the city of New York; and the amendment reported thereto from the Committee of the Whole House on the 25th ultimo was read, and concurred in by the House, and the bill was ordered to be engrossed, and read a third time to-day, (and was afterwards read a third time, and passed.)

#### SURVEYS, &c.

The House proceeded to the consideration of the bill for the improvement of certain harbors, and providing for surveys.

The amendment inserted in Committee of the Whole, on the motion of Mr. PEARCE, was now opposed by Mr. POLK and Mr. HOWARD, and was strenuously advocated by Messrs. BURGESS and PEARCE, and was finally concurred in without a division. In the course of the discussion, Mr. LAMAR moved to lay the bill on the table, but the motion was negatived.

The appropriation for the improvement of Back creek, (the estuary leading from the Chesapeake bay to the

Chesapeake and Delaware canal,) was objected to by Mr. DAVIS, of South Carolina; and he demanded the yeas and nays on it, but they were refused, and the appropriation was concurred in.

And a motion was made by Mr. LECOMPTE further to amend said bill, by adding thereto the following item, viz. "For removing certain obstructions in the Kentucky river, at the mouth of Big Benson, twelve thousand dollars;" which amendment Mr. L. made some remarks to explain and support.

The previous question was moved by Mr. HUNTINGTON, and being sustained—88 to 81,

The question was put on ordering the bill to be engrossed for a third reading, and carried—87 to 75.

The bill having been engrossed, was subsequently read a third time, and passed; and (about half after 10 o'clock) The House adjourned.

#### TUESDAY, MARCH 1.

#### DUTY ON SUGAR.

The resolution to reduce the duty on sugar was again taken up, and Mr. WHITE, of Louisiana, continued his remarks in opposition to the resolution until the expiration of the hour; when his argument was again arrested.

#### NATIONAL ROAD IN OHIO.

The bill from the Senate giving the assent of Congress to an act of the State of Ohio for the preservation of so much of the great national road as passes through that State, by the erection of toll gates, and the application of toll to the repairs of the road, was then taken up.

Mr. DUNCAN moved to recommit the bill to the Committee on Internal Improvements, with instructions to insert the amendment offered yesterday by the gentleman from Ohio, [Mr. VINTON.]

Mr. DUNCAN said that the bill in its present shape was exceedingly objectionable, and he could not consent to its passage, without entering his solemn protest against it. He was not altogether satisfied with the amendment proposed by the gentleman from Ohio, but it would, in his opinion, afford some protection to the rights of his constituents, and all those residing in the States west of Ohio, who must, if this bill passes, pay nearly all the expense of keeping the road in repair, as Ohio had, by the provisions of this bill, which she had submitted for the acceptance of Congress, and which had passed the Senate, and was now on its passage, exempted her own citizens, in nearly every possible case, from the payment of toll, and consequently taxing the citizens of other States, not only to keep the road in repair, but to pay an officer at every twenty miles. Mr. D. said that this measure must drive his constituents, and all the people west of the Ohio, from the road, as they could not and would not pay so unjust a tax, especially as the road was made by compact, and out of the funds of Indiana, Illinois, and Missouri, as well as those of Ohio. He thought the Legislature of Ohio was mistaken in the advantage it was to gain by exempting her own citizens from this tax, as the same policy would be adopted by Pennsylvania and Maryland, so as to make Ohio pay a portion of the tax at last; but he could see no hope for his constituents, except to tax the citizens of Missouri travelling to the Atlantic cities; and then, he said, this tax would make it impossible for his constituents to drive their stock on this road, and would render it of little or no use to them. He said that the liberal and just views expressed by the gentleman from Ohio [Mr. VINTON] met his entire approbation, and he firmly believed with him, that the bill, should it pass, is calculated to destroy the road, and was, in his opinion, a covert blow aimed at the whole system of internal improvements.

Mr. MERCER supported the motion. He dwelt on the acknowledged importance and value of this great national work, and insisted that it was incredible that the

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*Baltimore and Washington Railroad.—General Appropriation Bill.*

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House could ever mean to let it go to ruin. But the law enacted by the Legislature of Ohio contained such provisions as were calculated rather to injure than to preserve the road. All that sort of use which went to destroy it, viz. the use of wagons with narrow wheels, was to be encouraged by passing toll free, while a heavy tax was at the same time laid upon large wagons with broad wheels; the use of which consolidated the road, and ought to have been more favored than travel of any other kind. Ohio had almost exempted her own citizens from any toll for the use of the road, and had left it to be paid chiefly by the citizens of other States. Mr. M. referred to several particulars in support of the representation he had made, and contended that the act ought to be remodified before it was assented to.

Mr. IRVIN, of Ohio, was warmly opposed to the recommitment of the bill, which he insisted would be tantamount to its rejection, and before next session the road would become useless. Gentlemen seem to forget that Ohio had paid a large proportion of the money which had been already expended on this work; but how much, he would ask, had Illinois contributed? Less he believed than Ohio had paid towards making the road on this side the river. It was not to be expected the Government should continue contributing to the repairs of the road; and yet, unless it were repaired from time to time, it must go to destruction. The only system that gave any promise of saving this great national work, was the exaction of toll by the States through which the road passed.

Mr. VANCE, of Ohio, advocated the recommitment. He considered the arrangements of the law as it now stood to be palpably unjust. Those persons through whose property the road now ran, and whose estates had thereby been increased in value more than fifty per cent., were allowed to use the road free of toll, because they resided upon it; while those who lived in more distant parts of the State, and whose farms had, therefore, enjoyed much less of the benefit, were heavily taxed, together with citizens of other States who passed over the road.

Mr. WICKLIFFE opposed the recommitment. The argument of the gentleman last up would certainly be a very powerful one if addressed to the Legislature of his own State; but it must be well known to that gentleman that a great proportion of the members of the House denied the power of Congress to interfere on the subject of tolls in any form. For himself, he was one who admitted the power of Congress to construct a road through a State, but he denied their right to erect toll gates upon it. It was utterly vain to hope for any bill, in that House, which should regulate the tolls to be paid in Ohio; and he, therefore, was desirous that the several States through which the national road passes, might take charge of their respective portions of it. It was not probable that Ohio would persevere in any system of taxation that was palpably unjust; and if her law should prove unequal in its operation, no doubt her own sense of justice would induce her to modify it. Believing that to recommit the bill would be to destroy it, and that then the House would again be called upon for further contributions, he considered it his duty to demand the previous question.

The question being taken, it appeared that there was no quorum voting; whereupon, Mr. MERCER moved to lay the bill on the table. On this motion, Mr. ALEXANDER demanded the yeas and nays, which being taken, stood—yeas 63, nays 115.

So the motion to lay the bill on the table was lost.

The call for the previous question was now sustained; and the main question being put on ordering the bill to its third reading, it was carried—yeas 89, nays 60.

#### BALTIMORE & WASHINGTON RAILROAD BILL,

The bill from the Senate, authorizing the Baltimore and Ohio Railroad Company to extend a lateral railroad from

Baltimore to Washington, together with certain amendments thereto, being taken up,

Mr. DODDRIDGE, chairman of the Committee for the District of Columbia, moved that the House concur in the amendments of the Senate.

Mr. SEMMES, of Maryland, moved to recommit the bill to the Committee for the District.

The motion was opposed by Messrs. BROWN and HOWARD.

Mr. DODDRIDGE stated that he had examined all the amendments of the Senate, and, considering them reasonable, and in conformity with the wishes of the people of the District, thought they ought to be adopted.

Mr. TALIAFERRO professed unlimited confidence in his colleague, and great reliance on his judgment; but that, as this was the first moment in which the amendment had come to his knowledge, he thought further time should be taken to consider them, and he therefore supported the recommitment.

Mr. HOWARD opposed the motion to recommit with great earnestness. He was confident that the amendments need only to be read, to have their propriety at once perceived. They had been printed; and if the gentlemen had not read them, it was their own fault. One of the amendments went to reserve the right of Congress to pass laws hereafter for the opening of branch roads, and to regulate the speed of cars. The other, which had been inserted at the instance of the representation of the District, went to limit the termination of the road within the District, to some point between the capitol and Seventh street—instead of carrying it to the President's house or Rock creek. If any objection were made to this, it was to be expected from the corporation of Washington. But both the boards constituting that body had prayed for this restriction; and, if they consented to it, who could justly oppose it? Mr. H. expressed a fear that if the bill should be now recommitment, it would never regain its place on the calendar. He explained what had been done by the Legislature of Maryland on this subject. They had granted to the company liberty to make the road as far as the District line, on condition that it should be commenced within one year. If the present bill should be rejected, or lost by delay, the company would be left in an embarrassed situation.

Mr. SEMMES stated that he had been indisposed for some days, and had not seen the amendments. The subject was important, and excited deep interest in Maryland. It had been debated in her Legislature for several weeks. His constituents had embarked largely, both capital and credit, in the concerns of the company, and it was his duty, as their Representative, to look cautiously at whatever might affect their interest. He was in favor of the bill, but could not vote in the dark. He knew, however, that a majority of the Committee for the District differed from him in opinion, and he should cheerfully submit to any decision on the subject.

The question being then put on concurring with the Senate in their amendments to the bill, it was carried by a large majority.

#### THE GENERAL APPROPRIATION BILL.

The Senate's amendments to this bill came up for consideration in Committee of the Whole.

Various other amendments were considered, and agreed to without debate.

The amendment making provision for the pay of extra clerks in the Post Office Department, was then taken up, having been reported against by the Committee of Ways and Means.

Mr. CONNER said: This amendment had been made by the Committee on the Post Office and Post Roads of the Senate; the evidence had not been laid before the Committee of the House; but he was authorized to say that the object of the appropriation was to meet current



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expenses; that there was still something due to those clerks who were employed, many of them, by Mr. McLean; and the still increasing business of the department had compelled the present able incumbent to follow the example of his predecessor, (Mr. McLean,) whose name, on being mentioned in that House, produced excitement; but he [Mr. C.] had no hesitation in saying, he had for that gentleman kind feelings, and that he was an efficient officer. The gentleman from Connecticut [Mr. HUNTINGTON] had inquired of the committee if the department was not insolvent. He would answer that gentleman, that the Post Office Department was not only not insolvent, but that its condition was a prosperous one; that for the last eighteen months the increase for each quarter was some thirty or forty thousand dollars; and so far as the department could be informed, the increase for this quarter would be in proportion with the preceding one; and he had no hesitation in saying that the increase of the present year would exceed that of the last year by \$100,000. The policy of the late Postmaster General had been to retain but little surplus on hand. It was the true policy; and the present Postmaster General had very probably pursued the same course, in returning the money received back again among the people from whom it had come, for their accommodation.

The gentleman had also made an inquiry in relation to the available funds of the department; and, on another occasion, a gentleman from New York [Mr. STORNS] had sneeringly asked what had become of the \$230,000 left by Mr. McLean. He [Mr. C.] could tell the gentleman what had become of that money. There were now \$148,000 of it in the department; the seventy or eighty thousand dollars of that sum used, had gone to the extension of mail facilities, and accommodation to the people and the country. Where the mails were carried on horseback, they are now carried in sulkies or stages, and the trips increased; where the mail was received only weekly, it is now received twice in the week, on other routes three times a week, and, in many instances, daily stages were put in operation. This was asked for and required of him by the people and their representatives, and this is the way that that money has gone. Sir, whilst all your other departments were stationary, this department was annually extended, daily augmenting in business and labor, which necessarily required increased expenditures. Sir, the Postmaster General has not overreached himself, as has been insinuated; and if the House will take the trouble to reflect and examine for themselves one moment, they must see the propriety of this amendment. It is in accordance with the usual mode of paying the officers of the departments, and, in accordance with that, is this appropriation asked for. The services of those clerks employed must be paid for, and the only difference out of which fund they are paid is, that, if it be taken from the Post Office, it is so much withdrawn from mail facilities and accommodations. Sir, there was laid on your table, at an early day in the session, a bill providing for an additional number of clerks. It has not been reached, nor can it, the present session. Its passage would have superseded the necessity of this amendment. There are now in your treasury more than a million of dollars, which have been deposited there by the Post Office Department; and he would, at all times, have been willing to have appropriated from that sum an amount sufficient to have completed the mail arrangements throughout the country. The department, from its prosperous condition, would, in a very few years, have reimbursed the treasury, and more. He thought the appropriation proper, and hoped the House would not withhold it.

The question was then taken, and the appropriation was stricken out.

The item allowing compensation to Judge Cranch, for extra labor in preparing a code of laws for the District, (he having, at their request, assumed the share which

was assigned to two other commissioners associated with him,) gave rise to a short discussion, in which Messrs. ELLSWORTH, DODDRIDGE, and DWIGHT explained the service which had been performed, and the equity of the claim—and Mr. MCCOY opposed the appropriation as being an unsafe species of legislation.

This amendment was agreed to.

The item providing for fees to be paid to assistant counsel employed to aid the district attorneys of the United States had been originally \$2,600. The amendment recommended by the Committee of Ways and Means raised the sum to \$6,000; the amendment of the Senate proposed still further to increase it to \$8,000; the last sum was disagreed to, and the appropriation fixed at \$6,000.

#### THE TURKISH MISSION.

The next amendment in order was the appropriation of \$15,000, as compensation to the commissioners who negotiated the late treaty with the Ottoman Porte. The Committee of Ways and Means had recommended to strike out the amendment of the Senate which provided for this item, with a proviso going to disapprove of the appointment of the commissioners during a recess of the Senate.

Mr. VERPLANCK, chairman of the Committee of Ways and Means, explained the grounds on which that committee had recommended to strike out this item from the amendments of the Senate. Of the exact character of the persons to be compensated, he would not speak, as there was no distinct evidence on that subject before the House; whether they were to be understood as acting under a special commission as the personal agents of the President, or whether they were to be considered as *chargés des affaires*, there was no evidence on which to decide. The subject was known to have excited great warmth elsewhere; and the committee, considering the very inaccurate information submitted to them, and believing that the great question entered into by the proviso was likely, especially at so late a period of the session, to delay, and possibly endanger, the bill, and thereby injuriously to affect other great interests, had been unanimous in recommending that the whole amendment, as well the appropriation as the proviso accompanying it, should be stricken out. The parties concerned would, he presumed, be paid either from the contingent fund, or from the secret service fund; but, if not paid at this time, they must take their chance of being provided for by the next Congress. The committee considered it an act of public duty to report against the amendment.

Mr. WAYNE observed that he found one difficulty in agreeing to the proposal of the Committee of Ways and Means. If this appropriation should be stricken out, there was no fund to which the individuals concerned could look for payment. They had rendered important services; they had been the agents in the highest act which one department of the Government could perform. He felt the force of the remarks of the gentleman from New York, [Mr. VERPLANCK,] and he was, to a certain extent, constrained to acquiesce in them; but the House must make some certain provision for men who had performed an important public service. Was there no other part of the bill to which an additional appropriation might be appended, by which the object could be secured? In the estimate for the contingent expenses of foreign intercourse, there was one item of \$25,000. There was no proposal to strike that out; and, with a view to avoid debate, he would propose to amend the present amendment, by adding to that clause the words "and \$15,000, to defray the contingent expense of foreign intercourse, heretofore incurred." The Chair decided that it was not in order to amend an amendment recommended by the Committee of Ways and Means.

Mr. INGERSOLL said, the gentleman could easily arrive at his object, by allowing a vote first to be taken on

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the present amendment. If these commissioners were to be paid at all, it should be out of the secret service fund. They had been appointed by the President, under that power of the Executive which gives him control over this fund, and, if so, they ought to be paid in that way. Mr. I. said he thought he perceived where the difficulty of the gentleman lay; the gentleman was apprehensive that the secret service fund had been exhausted. How that may be, Mr. I. said, he did not know; the gentleman no doubt knew better than he did. All that he could say was, that he thought the House ought to take a question on the point now before it, and thereby settle the question of the disputed power of the Executive.

Mr. STORRS, of New York, professed not to understand the debate. He did not know what gentlemen meant when they talked about the secret service fund being exhausted; he was completely in the dark. His colleague, from the Committee of Ways and Means, [Mr. VERPLANCK,] told the House that that committee had no information—another gentleman told them that the commissioners had been appointed by somebody, and that some provision would be made for them by somebody, nobody knew who. For himself, he was not in the secrets of the cabinet; neither was the House in those secrets. If any public ministers or chargés were to be provided for, let the Government send the House some information—let it send the treaties that had been made—let it tell the House who the commissioners are. For his own part, he did not find such persons enumerated among our diplomatic agents. The House was asked to act in the dark—somebody said they wanted money, but the Government had not condescended to tell the people of the United States what it was wanted for. The House had received no estimate, no report: the Government gave it no information but this—that it wanted money. The House had no facts to go upon, and he therefore hoped it would strike out the whole appropriation. The item of \$25,000 for contingent expenses was intended for some other purpose, he did not know what; he hoped that would be stricken out, too, unless some further information was given. When he voted away money, he liked to do it understandingly. This sum was not for the ordinary contingent fund; if it was to be spent in presents to the Grand Turk, he should like to know the fact. He wished to know what he was doing. Were these \$25,000 to be paid for gold snuff boxes, diamond headed daggers, horses, urns, or what was it for?

Mr. VERPLANCK asked his colleague, [Mr. STORRS,] whether the object of his inquiry was to obtain a list of the special contingent expenses of the Turkish legation. The present sum of \$15,000 was proposed to be added to the sum of \$25,000, provided for general contingent expenses. It was not usual to lay the particulars of foreign intercourse directly or indirectly before the House.

Mr. WAYNE asked gentlemen to state whether, if this article was stricken out, certain persons who had rendered public service would not be left to take their chance for being paid before next Congress; and he again asked whether there was not any other part of the bill on which an amendment could be grafted to secure the payment of agents, the value of whose public services had been acknowledged by the highest act which any Government could perform, viz. the ratification of the treaty which they had made.

Mr. McDUFFIE observed that the question now was only as to one portion of the Senate's amendment—to the remainder the gentleman might add what he pleased.

Mr. WILLIAMS inquired whether, if the House should agree to the amendment recommended by the Committee of Ways and Means, and thus strike out a part of the Senate's amendment, the residue might not afterwards be stricken out.

The SPEAKER replied in the affirmative.

Mr. CONDIOT asked for a division of the question, so that it might be put first on the appropriation, and then on the proviso.

The SPEAKER replied, that, if the appropriation should be stricken out, there would remain nothing to which the proviso could adhere—the division, therefore, could not take place.

Mr. BURGESS observed that he could not see why persons who had been in the service of the country should not be paid. Why ought the appropriation to be stricken out? Did gentlemen intend that the agents of the Government should not be paid? Why not paid? Had they rendered no service? or was the service which they had rendered illegal? If they had not rendered any service, how came this clause in the bill, if the service had been rendered in an illegal or unconstitutional manner? Yet, so far as the country was bound in equity, why should not this House say, with the Senate, this does not justify us in withholding their pay? Why was the clause to be stricken out? Was any gentleman prepared to say that the President had the right, without consulting the Senate, to send abroad envoys to negotiate treaties, unless under the pressing exigencies of war? Can he consummate this act without consulting the Senate? Are we going to say that the President may not only fill a vacancy which occurs during the recess of the Senate, but that he may, without the Senate, originate any mission he pleases? Mr. B. said he had no doubt that the President could send out an agent for the purpose of examining the state of our relations with a foreign Power, but this must be done secretly. Such agents never were accredited. The President might, in this manner, discover by what means our relations with a foreign Power might be improved; but he might not appoint and send abroad high public envoys without first consulting the Senate. Mr. B. called upon all who heard him to say whether they were prepared to sanction such a power in the President of the United States. He trusted there were none. Did the House then intend to deprive these agents of their pay? Were they to be left to chance for their remuneration? Would the House indulge a disposition to employ services when they were needed, and then leave the servants to get their pay how they could? No, sir, said Mr. B.; the laborer's wages shall never sleep with me. I trust there is no man here who will vote to put these agents off to another Congress. Mr. Rhind was our consul to Odessa—he is known to be poor, and to possess nothing but what the Government gives him. He believed himself to be employed by a competent power—let us pay him for the services he performed—but let us, at the same time, take care to say that the power which employed him was not competent.

Mr. McDUFFIE said that the Committee of Ways and Means had no intention of being understood as saying that these agents were not entitled to compensation for their services—the committee were unanimous in the contrary opinion; but they had failed in accomplishing the object they had in view in recommending that this item be stricken out, which was to avoid debate. They desired to present the question in such a way as might conciliate all. He agreed that the simple striking out of this appropriation might, at first view, appear like the expression of an opinion that the individuals in question are not entitled to compensation; but such was not his opinion, nor that of the committee. They were, doubtless, entitled to compensation; and if the House could provide a fund out of which they might be paid, he should be glad. He had no wish to appear as if avoiding a vote on the principle contained in the Senate's amendment, but he did wish to avoid discussion. His opinion was, and he presumed there were few but would agree with him that the President did not possess power to appoint ministers plenipotentiary during a recess of the Senate, without

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nominating them to the Senate at its next succeeding session. But, if he was compelled to vote, he should not hesitate to say that he was unwilling to give a vote which might be construed into a censure of the President for what he had done. He was satisfied that the affair had happened through mere oversight, without any bad intent. The Senate had deemed it proper to vindicate its own powers, by inserting the proviso. The House had no such object, and no such obligation. The Senate had now done what they desired, and what they had a perfect right to do, and he hoped that further debate would be avoided.

Mr. ELLSWORTH observed that the House was now brought back to the question which had been stated by the gentleman from Rhode Island, [Mr. BURNES.] Certain public agents had performed important services; they had the fairest claim to be indemnified, and indemnified at this time; and, unless the House intended to compensate them in some other mode, they ought not to strike out this appropriation. If gentlemen did not like the proviso, let them strike it out; but the claim to compensation was certainly just and fair, and he could never consent to strike out a just appropriation because of the proviso that was attached to it.

Mr. DRAYTON said that he deprecated argument as much as any gentleman, and he should make none, unless he felt bound in duty to do so—he should not vote for striking out the clause, even if he thought that the appointment of the commissioners was illegal or unconstitutional. But he thought it was the exercise of a constitutional power, so far as any construction of the constitution could derive force from precedent. This was supported by numerous examples. He was not for striking out the proviso. He considered these agents as entitled to salaries. There was a fund out of which they might be paid, and therefore there was not the smallest objection to the amendment.

Mr. McDUFFIE, in reply to Mr. ELLSWORTH, observed, that if that gentleman's vote to strike out this clause depended on the House providing some other mode of compensation, his difficulty might easily be removed; for as soon as the House should vote to strike out this amendment, the gentleman from Georgia [Mr. WAYNE] would introduce another clause to cover the same object. The question was then taken on agreeing with the Committee of Ways and Means in their proposed amendment, going to strike out the amendment of the Senate, and it was carried in the affirmative.

Mr. STORRS, of New York, then moved to amend the amendment of the Senate, by striking out the \$25,000 for the contingent expenses of the mission, and substituting \$5,000. Mr. S. said that this \$25,000, was intended to provide the tribute customarily given to the Grand Seignior, as he understood it. The old Governments of Europe may feel it their interest to procure, by these means, the friendship of the Sublime Porte. Turkey lays under tribute every nation with which she has intercourse, by her policy of requiring presents. He asked if it was proper for us, while keeping up friendly relations with Russia, without any minister at St. Petersburg, to acquiesce in this course. He considered it unsound policy, after keeping ourselves, for half a century, without associating with the politicians at Constantinople, to send a chargé, when a consul would be as efficient to secure our interests. He stated that in sending a chargé we shall only make our country appear ridiculous, because, while the plenipotentiaries of other courts are admitted to the "brightness of the sublime presence," our chargé will be compelled to stand at the door among the servants and understrappers, and thus would the majesty of the American people be represented. He took a view of the accumulating expenses of the diplomatic corps since the present administration came into power, and asked if this

was a redemption of the pledges given by them before they were in office. We are called on to send a chargé to disgrace the American people before all Europe, and to pay \$25,000 out of our treasury for this privilege. There has been no information communicated to this House to call for this appropriation; and he would not consent to make any appropriation, without sufficient knowledge communicated in a proper manner. He had heard much of this treaty out of doors. He had heard that parts of it are very exceptionable; and it was rumored that it had not been ratified. We had been told by the President, in his opening message, of a liberal treaty with Turkey. He did not understand the term. Was it not a reciprocal treaty? He had heard that Captain Biddle had written a long letter reprobating some parts of the treaty. He had also heard of Mr. Rhind and his acts. But he desired that the treaty should be communicated to the House before the appropriation is given. He thought it necessary that we should know for what we are called on to give this money.

Mr. CARSON said it always gave him pleasure to listen to the gentleman from New York, who had just taken his seat, because of the ability which he always manifested when addressing that House. It was matter of deep regret that talents of so high an order should be enlisted on the wrong side. The powers of that gentleman were admitted by all, inasmuch that he was admitted to be capable of making any cause which he chose to adopt appear to be right, by the exertion of his elevated abilities. But, on the present occasion, Mr. C. was constrained to confess that he never heard the gentleman from New York make a speech on that floor which he himself seemed less to feel. The honorable gentleman had set out with telling the House that he was perfectly in the dark; that he could not at all understand the debate; but what a development had the House witnessed, and on what authority had it been made? The first thing the gentleman had discovered was the establishment of a new mission, which was to cost the country God knows how much. Each new minister, it seemed, was to be furnished with new snuffboxes, and every subsequent Congress was to be bound to make new and further appropriations. The ministers, too, were to make themselves ridiculous, by appearing in an inferior grade; and the gentleman's motion would go to render them still more ridiculous. The President had submitted the treaty to the Senate, and Mr. C. had understood that the treaty had been ratified with an amendment which went to strike out one offensive article. He was not sure that this was the case, but he had been so informed. In the discharge of his executive duty, the President had submitted to the Senate the propriety of establishing a diplomatic mission to the Ottoman Porte. The bill at first provided for the outfit of a full minister, but the committee (consisting of the gentleman's friends) had reduced the minister to a chargé, and had thereby afforded the gentleman an opportunity of holding up to the House a very entertaining spectacle, where our minister appeared dancing attendance out of doors among servants and drogomen, but never admitted to the brightness of the Sultan's sublime presence. The gentleman appeared to have thought a good deal on the subject, and he was sorry he had not obtained any information as to the political consequences arising from this difference of grade in our minister. Probably another agent might be needed; but that was the business of the Senate, as they had the exclusive appointment of new ministers. The gentleman from New York, if he recollected right, had advocated the Panama mission. Did the gentleman at that time ask for the instructions given to our minister? Far from it. All then was to be confidence in the Executive. The House was to repose an official confidence in the Executive. It was not its duty to ask too many questions. All was to be submitted to the Executive. Why did not

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the House now hear from him the same language? The gentleman had professed great ignorance; but, whatever might be his disclaimers, the House all knew full well that the gentleman was acquainted with the manner in which Turkish treaties were usually negotiated. He knew perfectly well that presents were always made by every nation who wished to maintain diplomatic relations, or obtain commercial advantages, or hold any intercourse with the Turkish court. The commercial benefits to be obtained by the present arrangement the gentleman had taken great care to throw into the shade; yet, if any commercial advantage was to be derived to the country, what city or what State of the Union was so likely to share in it as that from which the gentleman came? The city of New York, to which he understood the gentleman had lately removed his residence, being the great commercial emporium of the country, had the deepest interest in a question of this kind. The gentleman had said a great deal about paying tribute, and presenting diamond snuffboxes to an infidel Power. This language might, perhaps, take with the Dutch of New York, (to use a phrase which he had heard the gentleman employ,) and it showed the gentleman's great deference for the sense and information of his constituents. But, if the gentleman could impose upon his own constituents, it did not follow that he could, with equal ease, deceive the American people. They possess too much intelligence for such an operation. Mr. C. said that Andrew Jackson had discharged his duty. The House could not yet have the treaty laid before it, but it opened a prospect of great pecuniary advantage to the nation, from a participation in the commerce of the Black Sea. All this the gentleman well understood; and if, with the full understanding of it, he chose to take the responsibility of defeating such a measure, on him, and on those who acted with him, let it rest, and not upon Andrew Jackson, or the Senate of the United States.

Mr. WHITTLESLEY now moved that the committee rise, report progress, and have leave to sit again.

The motion was negatived—yeas 61, nays 75.

Mr. ARCHER said that he had at first meant to go into a full answer to the speech of the gentleman from New York, but he relinquished this purpose, believing that the gentleman's chief object had been to discharge a feeling; he would, therefore, confine himself to two or three remarks, by way of explanation. The gentleman had commenced by supposing that the object of this treaty was to put the country in a degrading attitude—to grant a tribute, to buy a treaty of the Sublime Porte. But such had been no part of the object. The treaty was made. It had been ratified, with the exception of one article. So far from soliciting or begging a treaty, the treaty had been made and ratified, and the object was to open commercial connexions between the United States and some of the richest countries of the old world; and the present appropriation was asked in order that our country might realize these benefits. Our interest in those seas was great and extended, and the question was, whether we ought not to have commercial agents to supervise the interests of the United States. But gentlemen ask, why not entrust this duty to our consuls? If the bill had done so, the expense would have been the same. The Government now pays our consul at Algiers \$4,000; and the salary of a chargé was but \$4,500. Nothing would be gained, therefore, by substituting the consul; the only difference would be, that the latter appointment would not be productive of such good effects. But to show that the gentleman would be satisfied with no conduct of the administration, and that he held it a duty to find fault, the gentleman had told the House, that, if we were to have any mission to Turkey, it ought to be an embassy extraordinary. That was what the Executive had asked for, and what the Senate had refused. If the present plan was wrong, the fault was not with the President. The

gentleman had endeavored to cast ridicule on the proposition, and upon the Government of his own country. The offering of presents appeared to him an unworthy object of expenditure, and calculated to degrade the nation. But why should we be degraded by doing that which had been done, at all times, by all Governments that had any connexion with the Ottoman Porte?

If it was good that we should hold commercial relations with the boundless territories of the Turk, (relations which had heretofore extended but a short distance around Smyrna,) was the country to refuse this advantage, because the gentleman from New York thought it degrading to make presents to the Grand Seigneur, to the amount of \$25,000? If we held such an opinion, we should be the only Power who thought so; all other nations have acted otherwise. If the country was to have political and commercial relations with the Porte at all, it could no more have them without presents than without ministers. No minister would have been received, nor permitted to open his credentials, till he had offered the customary presents. This Government once received a mission from a Turkish Power, and we paid the ambassador a regular stipend every week, although he came only to make an apology for a threat which had been uttered by his country against ours. We paid all the expenses of his embassy, and allowed him \$200 per week during his stay. Was that expenditure considered extravagant then? Was the country, for such a reason, to refuse the apology of a foreign Power, and thereby to avert the necessity of a war? Mr. Jefferson was wiser than that. The long and the short of this matter was, that here were presented to us real and great commercial advantages. Extensive regions, among some of the richest on the globe, were about to be opened to the United States. We were to hold commercial relations with all the countries round the Black Sea; and we were to have this advantage in the most economical form—at the expense of maintaining a single chargé. As to the other items, they were merely the necessary appendages of such a mission. A drogoman and presents were matters of course at the court of Turkey. If the House thought with the gentleman from New York, let them abolish the treaty; if not, let them make the appropriation.

Mr. STORRS replied; when

The question was taken on the amendment of Mr. STORRS, and decided in the negative by a large majority.

Mr. WAYNE then moved the amendment he had before proposed, viz. to insert after the item of \$25,000, the following:

“And \$15,000 for defraying the expenses of foreign intercourse heretofore incurred.”

The amendment was adopted—yeas 70, nays 65.

Mr. WILLIAMS now moved to insert the proviso, but the motion was rejected—yeas 62, nays 100.

Mr. DRAYTON moved an item of \$1,500 dollars for the salary of a student of languages, but the amendment was rejected.

The amendment of the Senate, as amended on motion of Mr. WAYNE, was then agreed to, and the debate closed. The committee then rose, and reported the amendments to the House.

Mr. VANCE moved for a division of the question on the amendment which had been so long debated in committee.

Mr. WICKLIFFE explained, the state of the question, and showed that, as an appropriation to the same amount, and for the same object, had been inserted in another part of the bill, unless the present clause should be stricken out, the bill would have two appropriations, of \$15,000 each, for the pay of the same persons.

Mr. VANCE said that his object in having the question divided was, that a separate vote might be taken, by yeas and nays, upon the proviso.

The SPEAKER said that the question should be divided, inasmuch as the proviso was so worded as to relate

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to the whole bill, and there would, therefore, be something for it to stand on, should the appropriating clause be stricken out.

Mr. MERCER explained, and, advertng to the course which had been pursued in Committee of the Whole, insisted that the amendment which had been inserted was different from that in view of which the appropriation and proviso were stricken out; so that gentlemen could not vote in the House as they had voted in committee.

The CHAIR replied that the House had adopted the amendment, and had no power to retrace the step.

The question was accordingly divided, and, being put on the appropriating clause, it passed in the affirmative.

The question then recurring on striking out the proviso of the Senate,

Mr. MERCER failed in an attempt to modify it.

And the yeas and nays, having been demanded by Mr. VANCE, and ordered by the House, were taken, and stood as follows:

YEAS.—Messrs. Alexander, Alston, Anderson, Angel, Archer, Barringer, James Blair, Bockee, Boon, Borst, Brodhead, Brown, Cambreleng, Carson, Claiborne, Clay, Conner, Crawford, Crocheron, Daniel, Davenport, Deberry, Denny, Drayton, Dudley, Earl, Findlay, Ford, Gilmore, Gordon, Hall, Halsey, Harvey, Haynes, Holland, Hoffman, Howard, Hubbard, Thomas Irwin, William W. Irvin, Jarvis, Richard M. Johnson, Cave Johnson, Kennon, Perkins King, Lamar, Lea, Leavitt, Lent, Lewis, Loyall, Lumpkin, Magee, Thomas Maxwell, McCreery, McCoy, McDuffie, McIntire, Miller, Mitchell, Muhlenberg, Patton, Pearce, Pettis, Polk, Potter, Sanford, Scott, Wm. B. Shepard, Aug. H. Shepperd, Shields, Smith, Speight, Ambrose Spencer, Richard Spencer, Stephens, Sutherland, Taylor, John Thomson, Trezvant, Tucker, Wayne, Wilde.—83.

NAYS.—Messrs. Allen, Armstrong, Arnold, Barnwell, Bayle, Beekman, Butman, Campbell, Childs, Chilton, Coke, Cooper, Coulter, Cowles, Craig, Crane, Crockett, Creighton, Desha, Draper, Eager, Ellsworth, George Evans, Horace Everett, Finch, Gauthier, Gurley, Hawkins, Hodges, Hughes, Hunt, Huntington, Johns, Lecompte, Lyon, Martindale, Lewis Maxwell, Mercer, Nuckolls, Overton, Pierson, Reed, Rencher, Richardson, Russell, Stanbery, Swift, Taliaferro, Test, Vance, Varnum, Vinton, Washington, Whittlesey, Edward D. White, Williams, Yancey.—57.

So the House agreed with the Committee of the Whole in striking out the proviso which the Senate had inserted, and which is in the words following:

"Provided always, That nothing in this act contained shall be construed as sanctioning, or in any way approving, the appointment of these persons, by the President alone, during the recess of the Senate, and without their advice and consent, as commissioners to negotiate a treaty with the Ottoman Porte."

#### THE CUMBERLAND ROAD.

The House then took up, in Committee of the Whole, the bill from the Senate for the continuation of the Cumberland road in the States of Ohio, Indiana, and Illinois.

Mr. IRWIN, of Pennsylvania, proposed the following section as an amendment thereto:

"And be it further enacted, That the sum of one hundred thousand dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the purpose of repairing the Cumberland road east of Wheeling."

Mr. CRAWFORD, of Pennsylvania, rose in opposition to the amendment. He said the amendment proposed was of general concern, as regarded the preservation of the great public work to which it related. This, said Mr. C., must be a desirable object with all; no gentleman surely wishes the destruction of this monument, at once

of the liberality of his Government, and of the fidelity with which its engagements are fulfilled. But, important as the proposition is conceded to be, in this view of it, as well as from the large amount, its real magnitude is only perceived when we look at it in reference to its effect on the future internal improvement of the country, as it may be decided the one way or the other.

Do you believe, sir, that if roads and canals are to be sustained at the expense of the treasury, they will be extended or long continued?

If the United States are to repair as well as to make, my word for it, they will soon cease to make. If this Cumberland road system is to be persevered in, and annual calls are to be made upon the treasury for the repair of public works, we shall soon have funds for no other purpose. How many of these projects have been already submitted for consideration? How many are every day originating and bringing forth? They can scarcely be reckoned; but if you take one in many of them, as advisable or fit, and calling for the exercise of the United States' power, you will soon have as many as your treasury can sustain, and the funds which should be applied to the extension of their benefits, by laying down and constructing others, will be exhausted in preserving those which have been already made. Is any forecast required to see that this course will be destructive to the whole system of internal improvement, and that those opposed to it will find it more effectual in checking and finally arresting this country in her rapid strides to the most prosperous condition, than any other legislation likely to take place here? The road from Cumberland to Wheeling is one hundred and thirty miles long. What will be required for its repair when it shall have reached Jefferson? that is, I believe, its name—the seat of Government of Missouri, however, is the place I mean. If I were the enemy, as I am the friend of internal improvement, I would desire no surer mode of undermining the system—no more, ultimately, and at no distant day, fatal course, to be pursued in relation to it. This policy is now popular with a large proportion of this nation; I mean when properly pursued; when the power that has been consecrated by time, and the opinions of the fathers of whatever is valuable in this Government, its history or administration, is put forth for great, leading, and national purposes, and judiciously drawn into operation even for them. But popular as this policy, so pursued, undoubtedly is with a majority of those by whose authority we stand here, it must, it will soon cease to be so if funds are continually demanded, not to construct roads and canals, but to preserve from ruin and decay those which have been, or those which shall have been made, at an immense expense of treasure, instead of drawing the means of support from the accommodation which they afford the traveller. Already has this system of treasury depletion been pursued too far; even now it is the subject of complaint. What will be the effect of it, when you shall have communications from north to south, and not one, but many avenues from east to west? It will require the revenue of the Government beyond its necessary and ordinary wants, if dissatisfaction is not created with, and a consequent abandonment does not take place of this wise and hitherto popular policy. Nothing that its enemies can do will half so much endanger it, as these preserving and repairing appropriations. I call upon the friends of internal improvement to take their stand now, unless they wish to retard or prevent its further progress. So long as you continue to grant these appropriations for repair, so long will the erection of gates upon any plan be declined or refused.

I have been informed by honorable gentleman, whose service here has been of some length, that repeated pledges have been given that each of several appropriations should be the last; and that of the appropriation of one hundred thousand dollars, granted on the 3d day of



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March, 1829, it was particularly said it should be the last; and yet, within a shorter time than one year, and at the very next session of Congress, we are asked for another one hundred thousand dollars, and a bill reported for them. And here I will ask, why has this bill, reported at the last session, not been acted on? Why has it been suffered to sleep upon this table? Is it because it was too weak to stand alone? I do not affirm that this was the consideration which governed those who had it in charge; but, now and forever, I protest against the practice of attaching to appropriations that are deemed indispensable, propositions of weak or doubtful policy—of making a nucleus of what almost all approve, to which to append measures that cannot sustain themselves. Are we thus to proceed forever?

It may not be amiss to take a retrospect, and see what the repair of this Cumberland road has cost within the seven years preceding 1830. No less a sum than one hundred and seventy one thousand two hundred and fifty-nine dollars.

February 28, 1823,	-	-	-	\$25,000
March 25, 1826,	-	-	-	749
March 2, 1827,	-	-	-	510
March 2, "	-	-	-	30,000
March 3, 1829,	-	-	-	100,000
May 31, 1830,	-	-	-	15,000
				<hr/>
				\$171,259

And of this sum, fifteen thousand dollars, granted the 31st day of May, 1830, besides two smaller sums previously given, were extracted from us by considerations of humanity for the contractor, whose expenditure exceeded by so much the sum placed at his disposal. I will here remark that these repairs must be most injudiciously conducted, for I presume the grant of one hundred thousand dollars, in 1829, must have been made on some friendly estimate; and yet, after it has been expended with fifteen thousand dollars more, we are called on for another sum of like amount. How large an expenditure within so short a period! More than one-tenth of what the road originally cost, and almost equal to one-fourth of what it should have cost, or what much better roads have been since made for; and yet this work is now in a worse condition than that in which it was before one dollar was expended in its repair, as I have learned from the best authority. It will never be in a better situation for the refusal of an appropriation. The argument of the necessity of putting it in thorough repair, before you collect tolls upon it, will be always in your way. Let those who advocate internal improvements consider how much they put the whole system to hazard by such measures, and that the adoption of this amendment will be fostering and cherishing this road, at the expense of other sections of the country having equal claims upon the notice of the Government. The fountain will afford an abundant supply, and the stream be copious and strong, diffusing fertility and exuberance throughout its course, provided you maintain its embankments, and preserve them so firm and hard that the water cannot waste and sink through fissures, and escape by rivulets; but if your inattention suffers its diversion at various points, it becomes so sluggish and weak as to be unequal to the purposes which it would otherwise answer. So if the treasury is made to bleed at every pore, for the purpose of supporting our public works, the funds which might be adequate to the embellishment and irrigation of the country by means of roads and canals, will, perhaps, be unequal, under any system of expenditure that the public agents have heretofore adopted, to the repair of those which have been made. The sums that will be asked for preservation would make much original improvement, if judiciously and economically expended. It is worthy of note, that the sum granted in

1829, and that now asked, are severally larger than any appropriation for the construction of this road between 1806, when it was first authorized, and 1813. They are as follows:

March 29, 1806,	-	-	-	\$30,000
February 14, 1810,	-	-	-	60,000
March 3, 1811,	-	-	-	50,000
May 6, 1812,	-	-	-	30,000

Nay, sir, they are each larger than the sum provided by the very bill to which this amendment is proposed, for the continuation of this road in Indiana—larger than that proposed for the same purpose in Illinois, and equal to the sum named for Ohio, west of Zanesville, as appears by the following abstract of its provisions:

For Indiana,	-	-	-	\$60,000
For Illinois,	-	-	-	60,000
West of Zanesville,	-	-	-	100,000

Let us, then, at once, refuse this appropriation, and authorize the erection of gates to collect toll, for present and future repair; thus shall we oblige those who use the road to preserve it—economize funds for other, and, if not equally valuable, certainly very valuable and desirable improvements, and retain for the system the strength and support of public opinion. Is this unjust to those who are specially interested in the road or use it? Is there any other facility for travel or transportation in the country, that is not so burdened, and to a much greater extent than will be required here? How are your State or corporation roads and canals supported? By tolls, which must be so high as not only to preserve and repair, but to furnish funds for the payment of dividends to stockholders, or the interest of money borrowed for their construction. Here all that is required is to repair; and a reasonable toll will repair present dilapidations, and be equal to future preservation. To this you must come; you had better do it now. Pursue the course I advise, and, in addition to the other reasons that abundantly justify the step, you will do justice to the public and private avenues to the West that come into competition with this road. They are compelled to collect heavy tolls, and enter into a very unequal struggle with this favorite, and perhaps deservedly favorable structure, which so far has been free of charge.

Sir, a persistence in this course will not only paralyze and ultimately check improvement by United States' means, but its tendency is to discourage private and State effort for the extension of those communications which add so much to the beauty, so much augment the strength, and multiply the resources of any country. Can corporations or joint stock companies invest their moneys in enterprises which must compete for business and use with those that are regulated on the free trade plan? Can States even, in the ordinary condition of their revenues, engage in the constructing of roads and canals without reckoning upon interest for the sums so embarked? And what hope can they have of its receipt, if the United States shall continue to lay down as good, perhaps better, means of intercourse, to which resort can be had without expense. Justice, then, to States, to corporate bodies, and to individual interests, calls upon you to change your course. Shall my money be taken to construct a road that may be worn, out free of charge, to the destruction of an investment that I have made elsewhere under State permission? Refuse a further grant of money; erect, or allow to be erected, toll gates, and you will thus aid the great cause of internal improvement, and preserve for it the only foundation on which it can long rest—the favorable opinion of our constituents; you will at least not throw any obstacles in the way of enterprise from other quarters, and will act justly by those exertions which have been successfully made elsewhere.

I again entreat the House to pause and reflect before this appropriation for repair is granted. Those honorable gentlemen who favor the improvement of the country

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may rest assured that if this wasteful course is persevered in, this eternal drain upon the treasury, it will go further and faster to undermine this now favorite policy, than any thing else which can be said or done. One hundred thousand dollars granted the session before the last, on a condition, at least so understood by many, that more would not be again asked—expended with fifteen thousand dollars more, paid by us in May last—and now we are, and last year were, importuned for another one hundred thousand dollars. This road, first and last, has cost a prodigious sum of money, as is shown by the exhibit submitted. The road from Cumberland to Wheel-

ing cost, - - - - -	\$1,702,395 63
Surveys in Ohio, Indiana, and Illinois, - - - - -	20,000 00
Road in same States, - - - - -	945,000 00
	<hr/> 965,000 00

Bill of this session provides

For Illinois, - - - - -	60,000 00
For Indiana, - - - - -	60,000 00
West of Zanesville, - - - - -	100,000 00
Repairs during 1830, - - - - -	950 00
	<hr/> 220,950 00

\$2,888,345 63

Besides some two or three thousand dollars for further repairs, which I cannot note particularly, as I have not the bill before me.

Repairs since 1823, east of Wheeling, - - - - -	171,259 00
	<hr/> \$3,059,604 63

Besides which, it is estimated that the expense of it contemplated construction from Vandalia, in Illinois, to Jefferson, in Missouri, will be one million of dollars.

To the appropriations for making roads, that are proper objects for General Government effort, I go cheerfully and willingly, though I do not always think that the money is prudently or economically expended. Upon this system of repair, I will not enter at all. For any constitutional method of raising toll, preferring one mode to another, but preferring any to none, I will vote; but I cannot consent to wither a system so exuberant with good—to dry up a fountain, whose waters, if not scattered and thrown upon the ground where they cannot be gathered, are sufficient to refresh and invigorate us all. In one word, I will not aid this lavish expenditure of money—this squandering of it, might I not say, upon a single object, to the exclusion of others requiring, perhaps not in so great a degree, but still requiring the assistance of the Government. This subject might be pursued at great length, but I have too much respect for the House, and I will add, too much self-respect, on this the last business day of the session, to obtrude myself further upon its notice.

Mr. McCREERY, of Pennsylvania, said that although he would, under different circumstances, feel himself bound to take notice of some of the arguments of his friend and colleague, [Mr. CRAWFORD,] yet he could assure the House that he did not intend to make a speech. He said that he would merely observe that, unless the appropriation now asked for be granted, the road would inevitably go to ruin; and the only question to be determined was, whether it was the true policy of the Government to grant an appropriation to repair the road, and adopt some measure for its permanent preservation, or to abandon this great national work, and lose all that has been heretofore expended, and thus deprive the people and the Government of all the advantages contemplated in the construction of this road. He said he was sorry that his colleague had considered it his duty to oppose this appropriation. He would not say that he was influenced by any considerations of interest which he may have in a certain road in

Pennsylvania, for he could not believe that any member of Congress would be actuated by such selfish principles; yet it was somewhat strange that the only opposition in Pennsylvania came from that quarter. It was not for him, he said, to give the reason; he presumed the gentleman had one, satisfactory to himself. He said his colleague appeared to be in favor of erecting gates; but he would ask him, what would be the use of gates on a road that could not be travelled? And unless an appropriation should be now made, that would be the case with this road in a short time. Those who feel an immediate interest in the road do not object to gates, and the collection of so much toll as will keep the road in repair in future; but until it is improved, toll could not be collected, were gates now on the road. By refusing the appropriation, you deprive us of the only means left of preserving the road in future. He begged of the House to consider the situation in which this part of the Cumberland road was placed; it was locked up from the respective States, in the hands of the General Government; so that if the States through which it passes were disposed to repair it, they have not the power. All we ask is, that the General Government put the road in such repair as will justify the collection of toll, and we have no objection to making the travel keep it in repair in future. He said that he had promised that he would not detain the House with a speech; and he would only express a hope that the House would not deprive the public of this useful and important road, but would grant the small sum now asked for, which was indispensably necessary to preserve the road from utter ruin.

The amendment was negatived, and the bill was reported to the House.

#### WEDNESDAY, MARCH 2.

Mr. POTTER, from the select committee on the rules of the House, reported a resolution directing the arrangement and printing of the existing rules, and the designation of such as clash with each other. To this Mr. MERCER proposed an amendment, which went to modify the operation of the previous question, so as to enable it to be put without (as at present) excluding all pending amendments; but the report and amendment were, on motion of Mr. CONDUCT, laid upon the table.

Mr. WHITE proceeded with his speech on the sugar bill till he was arrested by the expiration of the allotted hour, and an additional half hour allowed by a vote of the House.

[Mr. RENCHER was opposed to the suspension of the rule at this late hour of the session. There was no possibility of legislating on the subject at this session, and the only object of discussion at this time was to produce effect elsewhere. He, therefore, hoped, if the House should agree to suspend the rule, it would be an indefinite suspension for a general discussion, and not for the accommodation of any one member. Mr. R. said he had been very anxious to embark in this debate, and should now be glad of an opportunity of replying to the argument of his friend from Louisiana, if he could do so without setting aside, and thereby sacrificing, important measures that were pressing upon the attention of the House. The rule was suspended, however, and Mr. WHITE concluded his speech, the whole of which is embodied in the preceding pages.]

#### THE CUMBERLAND ROAD.

This bill coming up, Mr. IRWIN, of Pennsylvania, renewed the motion he made yesterday in committee, to add a section appropriating one hundred thousand dollars for the repair of the road east of Wheeling. He supported his motion by a short speech explaining the facts of the case, and adverting to the new policy adopted by Ohio and Pennsylvania for the preservation of the road by the erection of toll gates.

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*Choctaw Treaty.—Fortifications.—Trade to Danish Islands.*

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The amendment was again opposed by Mr. CRAWFORD. Mr. LETCHER explained in reply—briefly urging that, unless the road was to be abandoned, the amendment must prevail. The same ground was taken by Mr. MCCREERY, to whom Mr. DENNY replied; when the amendment was rejected—yeas 53, nays 94.

Mr. PETTIS'S amendment, proposing \$10,000 for extending the road west of Vandalia, shared the same fate; as did another offered by Mr. DUNCAN, proposing \$5,000 for a different route in the same quarter, by the intervention of the previous question, on motion of Mr. POLK.

The bill was then ordered to a third reading—yeas 78, nays 67; and was subsequently passed by yeas and nays—yeas 89, nays 66.

On motion of Mr. VERPLANCK, the House agreed to the request of the Senate for a conference on the general appropriation bill; and Messrs. VERPLANCK, WHITE, of New York, SPENCER, of New York, WAYNE, and DRAYTON, were appointed a committee on the part of the House.

### CHOCTAW TREATY.

The military appropriation bill was next considered in Committee of the Whole, Mr. CONDUIT in the chair.

The amendment which went to appropriate \$80,000 for the expenses of the Choctaw treaty, out of the treasury, and not out of the sum of \$500,000 appropriated by the Indian bill of last year, being read,

Mr. BELL explained, and strenuously advocated the amendment, answering several queries of Mr. VINTON, in relation to the expenditure of part of the appropriation of last year.

Mr. ELLSWORTH opposed the amendment, insisting that the \$500,000 of last year was intended to cover the expenses included in this sum.

Mr. STORRS took similar ground, and quoted the Indian bill in support of his position, comparing the treatment of the House by the Executive to the child's play of "shut your eyes and open your mouth."

Mr. POLK replied, contending that the House had abundant light, and insisting that the objects of this appropriation never were contemplated when the \$500,000 were granted by the bill of last year.

Mr. HUNTINGTON further quoted the law, and argued to show that the objects now proposed might be paid for out of the sum in that law; and whether or not, the House might now so direct.

Mr. BURGESS earnestly argued on the same side.

Mr. WICKLIFFE advised that no reply be made, as the speeches would avail nothing, save for political effect.

Mr. BELL replied, insisting on the distinct character of the objects now asked for; arguing, with great warmth, to show that the President would have violated the act of last session if he had applied the money then given him to the objects of education, farming utensils, rifles, council houses, &c. comprised in the present appropriation, and then the gentleman would have taken opposite ground, and cried out autocracy, &c., and repelling the ideas suggested by Mr. BURGESS, that the fund in the hands of the President was to be reserved as a treasure for bribery.

Mr. STORRS replied, and explained.

Mr. WHITTLESEY remonstrated against the consumption of time in this debate.

Mr. WILDE demanded the question, and threatened a full discussion should the debate be further pursued.

The question was taken accordingly, and decided in the affirmative—yeas 93; so the House concurred, and the clause was stricken out which takes the \$80,000 out of the \$500,000 of last year.

### FORTIFICATIONS.

The next bill considered in Committee of the Whole was that for fortifications. The Senate's amendment, which

gives \$200,000 instead of \$100,000 towards arming the forts, was advocated by Mr. DRAYTON.

Mr. YANCEY opposed the amendment, as did Mr. REED, on the ground that the contracts were unfavorable, and the ordinance might be furnished thirty per cent. cheaper; and Mr. TUCKER, on constitutional grounds. Mr. WILLIAMS inquired if the contracts were advertised for. Mr. REED stated there was a monopoly. Mr. DRAYTON dissented from this statement; when, the question being taken, the amendment was rejected.

The committee then rose, and reported the bills. On concurring with the committee on the disputed amendments to the Indian appropriation bill, Mr. ELLSWORTH demanded the yeas and nays, which, being ordered, stood—yeas 92, nays 72.

So the House concurred, and the clause was stricken out.

Mr. VERPLANCK, from the committee of conference, reported a unanimous agreement of that committee in the following compromise: to strike out all the specifications of items of expense of the negotiation with the Ottoman Porte, and inserting the following in lieu thereof: "For the contingent expenses of foreign intercourse, in addition to the sum of twenty-five thousand dollars herein-after appropriated, the sum of fifteen thousand dollars." This report was agreed to.

And the House then adjourned to half past six o'clock this evening.

### EVENING SESSION.

### TRADE TO DANISH ISLANDS.

Mr. CAMBRELENG, from the Committee on Commerce, to which was referred the message from the President of the United States, transmitting the correspondence between the Danish minister and the Secretary of State, concerning the commerce between the United States and the island of St. Croix, made the following report; which was read, and laid on the table:

"The Committee on Commerce, to which was referred the correspondence between the Danish minister and the Secretary of State, concerning the commerce of the United States with the island of St. Croix, make the following report:

"The Danish minister represents that the produce and manufactures of the United States have been uniformly admitted into the island of St. Croix, without duty, or at very moderate rates, and that the vessels of other countries have been excluded. The navigation of the United States has been permitted by Denmark to enjoy the almost entire monopoly of her colonial commerce. While that Government has extended to us these advantages, the Danish minister complains that we have augmented our duties upon the produce of the island of St. Croix, so much as to render it impossible for the planter to pay for his supplies; and that unless some change should be made, the commerce of that island must, of necessity, be driven into some other channel.

"The committee have also before them a memorial of American citizens, interested directly and indirectly in the plantations of St. Croix, sustaining the representation of the Danish minister. To revive this branch of commerce, the minister proposed certain commercial arrangements, which were declined by the President, as they were founded upon concessions of an exclusive character. At the request of the minister, the correspondence was referred to Congress.

"The following proposals were offered by Denmark:

1. "That, in the intercourse of the island of St. Croix with foreign countries beyond the West Indian seas, no foreign ships but those of the United States shall be admitted to an entry at the custom-houses of the island, nor suffered to export produce thence; (the whole trade of the island will thus be reserved to the Danish and American flags.)
2. "That Indian corn and Indian corn meal, imported

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Importers of Salt.—Suspension of Rule.

[MARCH 2, 1831.]

into the island of St. Croix from the United States, shall be subject to no duty whatever; (this article amounts to nearly twenty thousand puncheons annually;) and

3. "That all other articles, without any limitation whatever, shall be allowed to be imported into the island of St. Croix from the United States, subject to such duties only as by this arrangement shall be agreed upon, and which shall not exceed five per cent. ad valorem on certain articles, considered necessities, or of general use and consumption, as flour, salted provisions of any kind, butter, cheese, tallow, candles, fish oil, oil of turpentine, live stock, and horses, staves, hoops, headings, shingles, boards and deals of all descriptions, and all sorts of manufactured goods of the coarser kind, whether made from wood, metals, wool, or cotton, and not exceeding ten per cent. ad valorem on all other articles coming more properly under the denomination of luxuries, as furnitures, carriages, gigs, &c.

"The concessions were, however, proposed only upon condition that the United States would also concede exclusive advantages to the commerce and navigation of St. Croix, including a provision that the produce of that island should be admitted into this country at lower rates of duty than had been levied upon similar productions of other countries.

"The friendly policy of Denmark, and the recent manifestation of her justice towards this country, should recommend any proposition of hers to our most favorable consideration. But with every disposition to receive these proposals in a spirit of mutual liberality, the committee discover too many and substantial objections to any arrangement of the character proposed. It has always been our wise policy to offer equal commercial advantages to all nations, and to entangle ourselves with no embarrassing arrangements with any country; granting privileges denied to other countries, and establishing discriminating duties in favor of the productions of particular nations, which are not offered to all. The committee deem it impolitic to enter into any exclusive arrangements, even were they not restrained from recommending any such measure, by our obligations to other nations. Our duties on the productions of St. Croix are undoubtedly too high to admit of a mutually profitable exchange in our commerce with that island. We may, however, indulge the hope that some modification of our imposts may follow the redemption of our public debt, which will be more favorable to the productions of an island which, from its vicinity to our continent, may be almost considered a commercial appendage of the United States. But whatever measure we may adopt, should be of a general character, operating with a just equality on our commerce with all nations. The committee, therefore, ask to be discharged from the further consideration of the correspondence."

#### IMPORTERS OF SALT.

The House proceeded to the consideration of the bill from the Senate, entitled "An act supplementary to the act to reduce the duty on salt," when a motion was made by Mr. McDUFFIE to strike out the second and third sections of the said bill; which motion he subsequently withdrew.

A motion was then made by Mr. MILLER to amend the said bill, by inserting, in the second section thereof, these words: "And which still remains unsold by the importer or importers thereof;" so as that salt which has been put into custom-house stores, under the bond of the importer, and remained under the control of officers of the customs on the 31st December, 1830, and which still remains unsold by the importer or importers thereof, shall be subject to no higher duty than if the same were imported after the 31st December, 1830.

And, after debate on this amendment, it was,

On motion of Mr. WHITTLESEY,

Ordered, That the said bill do lie on the table.

The House proceeded to the consideration of the bill from the Senate, entitled "An act supplementary to an act granting the right of pre-emption to settlers on the public lands, approved the 29th day of May, 1830;" and, after debate on an amendment reported thereto by the Committee on the Public Lands, it was,

On motion of Mr. HUNT,

Ordered, That the said bill do lie on the table.

Subsequently Mr. HUNT moved to reconsider this order; which motion to reconsider was also laid on the table.

The House proceeded to the consideration of the bill from the Senate, entitled "An act supplementary to the several laws for the sale of the public lands;" and, after debate on the said bill, it was,

On motion of Mr. WILLIAMS,

Ordered, That the said bill do lie on the table.

Several other bills were laid on the table, and many others passed and disposed of in different ways.

#### SUSPENSION OF RULE.

Mr. RICHARDSON, from the Joint Committee on Enrolled Bills, reported the following resolution:

*Resolved by the Senate and House of Representatives,* That the 17th joint rule of the two Houses, which declares that "no bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approval on the last day of the session," be suspended.

The SPEAKER (Mr. McDUFFIE at this time officiating) decided that under the rules of the House it was not in order for the Committee on Enrolled Bills to make report at this period of the day of any matter, except the examination and presentation of enrolled bills.

Mr. SUTHERLAND appealed from this decision, on the ground that, by the 105th rule of the House, it is declared that "it shall be in order for the Committee on Enrolled Bills to report at any time."

And the question was put, without debate, on the appeal, when the SPEAKER's decision was affirmed.

The amendment of the Senate to the bill to regulate the foreign and coasting trade on the Northern and Northwestern frontiers of the United States, was read, and adopted.

[The amendment of the Senate extends the provisions of the bill to the trade on the Northeastern frontier of the United States.]

The bill for the relief of the heirs and representatives of Thomas Worthington came up; and upon this bill a long and animated debate arose. It was principally opposed by Mr. ELLSWORTH, of Connecticut, and advocated by Mr. FOSTER, of Georgia.

It was finally ordered to be read a third time, by yeas and nays—yeas 55, nays 52.

The bill was then, accordingly, read the third time, and the question was stated from the Chair, that it do pass.

Upon this question the debate was again renewed with great earnestness, between Mr. ELLSWORTH and Mr. FOSTER. Mr. CREIGHTON also earnestly advocated the bill. It was opposed also by Mr. WICKLIFFE and Mr. CHILTON, the latter of whom moved that the bill be laid on the table; which motion was lost—yeas 52, nays 57.

The debate was again resumed; during the course of which it was suggested that a quorum was not present.

And then, on motion of Mr. CAMBRELENG, a call of the House was ordered; and the roll having been called, one hundred and thirteen members answered to their names, which being more than a quorum, further proceedings in the call were dispensed with.

And some gentleman having announced that the Senate had adjourned,

The House then also adjourned at half past three o'clock in the night, between the 2d and 3d of March.

MARCH 3, 1831.] *Thanks to the Speaker.—Raising of Silk.—Slave Trade.—Treaty with Austria.*

[H. OF R.]

THURSDAY, MARCH 3.

After sundry reports,

Mr. DWIGHT moved the following resolution, viz.

*Resolved*, That the 17th joint rule be suspended, with the concurrence of the Senate, so far as to allow the bills of this House, which were passed or acted upon yesterday, as also the bill making appropriations for building lighthouses, lightboats, beacons, monuments, and placing buoys, the bill for the relief of Percis Lovely, and the bill from the Senate for the relief of the heirs and representatives of Thomas Worthington, deceased, to be finally acted upon, and presented to the President of the United States.

This resolution was read, when a message was received from the Senate, notifying the House of the passage by the Senate of a resolution of similar import, and asking concurrence.

The resolution was then read, and concurred in by the House.

And then the amendments of the Senate to the bill entitled "An act making appropriations for building lighthouses, lightboats, beacons, monuments, and for placing buoys;" and

The amendments of the Senate to the bill entitled "An act for the relief of Percis Lovely," were read, and, being considered in Committee of the Whole House on the state of the Union, were concurred in by the House.

A motion was made by Mr. POLK, that the rule of the House which allots one hour for the making reports and the presentation of resolutions, be suspended for the remainder of the session.

And the question being put, two-thirds of the members present did not vote in the affirmative, and the question was therefore decided in the negative.

## THANKS TO THE SPEAKER.

Mr. CARSON rose (Mr. McDUFFIE temporarily occupying the chair) and said, the House of Representatives of the twenty-first Congress had met for the last time; and when we separate to-day, said he, many of us will have parted to meet no more forever. My heart admonishes me that this is a fit occasion for us to offer up all our animosities upon the altar of peace, kindness, and good will. In rising, sir, to perform a last act of legislative duty upon this occasion, I do it the more willingly, and with the more pleasure, because, while it is an act of justice, it is an act of friendship.

I ask leave to introduce the following resolution, which I hope will be unanimously received and adopted:

*Resolved*, That the thanks of this House be presented to the honorable ANDREW STEVENSON, Speaker, for the dignity, impartiality, promptitude, and ability, with which he has discharged the duties of the chair during the present session.

## RAISING OF SILK.

Mr. SPENCER, from the Committee on Agriculture, to which was referred a letter to the Speaker from Count Fontaniellere, of Paris, accompanied with a translation of a treatise by Count Dandolo, on the art of cultivating the mulberry, by Count Vevu, and also observations by Count Fontaniellere on two different varieties of mulberries, by leave of the House reported the following resolution:

*Resolved*, That the Speaker be requested to answer, in behalf of the House, the aforesaid letter, and to express the acknowledgments of the House for this manifestation of the interest taken by distinguished foreigners in the welfare and prosperity of the United States, and that the said books be placed in the public library.

The said resolution was read.

And on the question, Will the House agree thereto?

It passed in the affirmative.

## SUPPRESSION OF THE SLAVE TRADE.

Mr. MERCER moved to suspend the rule, to enable him to submit the following resolution:

*Resolved*, That the President of the United States be requested to renew and to prosecute from time to time such negotiations with the several maritime Powers of Europe and America, as he may deem expedient, for the effectual abolition of the African slave trade, and its ultimate denunciation, as piracy, under the law of nations, by the consent of the civilized world.

And on the question shall the rule be suspended,

It passed in the affirmative—yeas 108, nays 36.

The said resolution was then received; and, after debate thereon,

The previous question was moved by Mr. POLK; and being demanded by a majority of the members present,

The said previous question was put, viz. Shall the main question be now put?

And passed in the affirmative.

The main question was then put, viz. Will the House agree to the said resolution?

And passed in the affirmative, as follows:

YEAS.—Messrs. Anderson, Angel, Arnold, Bailey, Barber, Barringer, Bates, Beekman, Bockee, Borst, Brodhead, Burges, Butman, Cahoon, Campbell, Childs, Condict, Cooper, Coulter, Cowles, Craig, Crane, Crawford, Creighton, Crocheron, Crowninshield, Davenport, John Davis, Denny, De Witt, Dickinson, Draper, Drayton, Dwight, Eager, Earll, Ellsworth, George Evans, Edward Everett, Horace Everett, Findlay, Finch, Fry, Gilmore, Grennell, Halsey, Hammons, Harvey, Hawkins, Hemphill, Hodges, Holland, Hoffman, Howard, Hubbard, Hunt, Huntington, Ihrie, Thomas Irwin, Jarvis, Johns, R. M. Johnson, Kendall, Kincaid, Perkins King, Adam King, Leavitt, Lecompte, Leiper, Letcher, Lyon, Magee, Martindale, McCreery, McDuffie, Mercer, Miller, Mitchell, Muhlenberg, Pearce, Pettis, Ramsey, Reed, Richardson, Rose, Scott, W. B. Shepard, A. H. Shepperd, Shields, Semmes, Sill, Smith, Ambrose Spencer, Richard Spencer, Stanbery, Sterigere, William L. Storrs, Strong, Sutherland, Swift, Taliaferro, Taylor, Test, John Thomson, Tracy, Tucker, Vance, Varnum, Verplanck, Vinton, Washington, Weeks, Whittlesey, C. P. White, Edward D. White, Williams, Wilson, Young.—118.

NAYS.—Messrs. Alexander, Barbour, Barnwell, James Blair, Bouldin, Carson, Daniel, W. R. Davis, Desha, Dudley, Foster, Gaither, Hall, Haynes, Hinds, C. Johnson, Lamar, Lea, Loyall, Nuckolls, Overton, Patton, Polk, Potter, Rencher, Roane, Speight, Wiley Thompson, Trezvant, Wickliffe, Wilde, Yancey.—32.

So the resolve was agreed to.

The House then again resumed the consideration of the bill from the Senate, entitled "An act for the relief of the heirs and executors of Thomas Worthington, deceased;" and after a warm and animated discussion, in which Mr. FOSTER, of Georgia, and Mr. ELLSWORTH, of Connecticut, bore the principal part for and against the bill,

The question was put, Shall the bill pass? and was decided in the negative.

A motion was made by Mr. SPENCER, of New York, that the rule be suspended, to enable him to submit a resolution authorizing a renewal of the subscription to Gales and Seaton's Register of Debates.

## TREATY WITH AUSTRIA.

A message, in writing, was received from the President of the United States, by Mr. Donelson, his private Secretary, viz.

*To the House of Representatives of the United States:*

I communicate to Congress a treaty of commerce and navigation between the United States and the Emperor of Austria, concluded in this city on the 28th March, 1830,



H. OF R.]

Adjournment.

[MARCH 3, 1831.]

the ratifications of which were exchanged on the 10th of February last.

ANDREW JACKSON.

WASHINGTON, March 2, 1831.

The message was laid on the table.

The SPEAKER laid before the House sundry communications from the Executive Departments.

And then, being half past three o'clock P. M.,

The House took a recess until six o'clock P. M.

SIX O'CLOCK, P. M.

The House resumed its session.

On motion of Mr. DWIGHT,

*Resolved*, That a committee be appointed on the part of this House, to be joined by such committee as may be appointed by the Senate, to wait on the President of the United States, and to notify him that, unless he may have further communications to make, the two Houses of Congress, having completed the business before them, are ready to close the present session by an adjournment.

Mr. DWIGHT and Mr. ROANE were appointed of the said committee on the part of this House. Soon after,

Mr. DWIGHT, from the said joint committee, reported that the committee had, according to order, waited on the President, and made the communication to him; and that the President answered that he had no further communications to make to either House of Congress.

It was then

*Ordered*, That a message be sent to the Senate to notify that body that this House, having completed the business before it, is now ready to close the present session by an adjournment, and that the Clerk do go with said message.

The Clerk having delivered said message, and being returned, a message was received from the Senate by Mr. Lowrie, their Secretary, notifying the House that the Senate, having completed the legislative business before it, is now ready to close the present session of Congress by an adjournment.

Thereupon,

The SPEAKER rose from his chair, and addressed the House as follows:

GENTLEMEN: I receive with sentiments of profound respect and grateful feeling the renewed expression of your approbation and confidence in my administration of the arduous duties of this high office. The character and power of this House; the rank which it holds in the eyes of the world; the deep and abiding confidence of the

nation in the intelligence, virtue, and patriotism of its Representatives, must ever render the approbation or censure of this House a matter of no ordinary importance to those who fill high places of public trust and confidence. This station, justly esteemed among the first in distinction and honor, has always been regarded not only as one of elevated character, but of severe responsibility and labor, and of extreme delicacy. In discharging its arduous and multifarious duties, no man can hope to free himself from error, or to give unqualified or universal satisfaction. In times, even, of profound tranquillity and repose, to please every one cannot, and ought not to be expected. Amid the storms of political and party excitements, it would be idle and vain to expect it. My path here for the last four years has not been strewn with roses. I have had, as you well know, my full share of responsibility, embarrassment, and toil. I can say, however, with truth, that I have endeavored to meet your expectations by a zealous devotion of my time, and even my health, to your service, and by a faithful and independent discharge of my public duty. This, gentlemen, was all that I promised when I received this high appointment at your hands; and in laying it down I feel a proud consciousness that I have redeemed my pledge; and if the trust has not been ably, it has, at least, been honestly discharged. During the entire period of my service, and under all the agitations of the times, it has been my peculiar good fortune and pleasure to receive, in an almost unexampled manner, the kindness and support of the members of this House; and in proof of it I may be permitted to remark, I hope without vanity, that in all the numerous and important decisions which I have been called upon to pronounce from this chair, but one has ever been reversed by the judgment of the House, and that under circumstances which can cause me no regret. Can I, then, feel otherwise than gratified and flattered, cheered and consoled, by this renewed and distinguished evidence of your confidence and favor? I receive it, gentlemen, in the spirit in which it has been offered; I cherish it in my heart. It is the highest and the only reward that I either sought or expected; and I shall cherish it through life with feelings of the deepest respect, and the most affectionate gratitude. God grant that you may long live to serve and benefit your country, and enjoy its undiminished confidence; and, in bidding you an affectionate, and, perhaps, last farewell, accept, I pray you, my cordial and best wishes for your individual health, prosperity, and happiness.

He then declared the House to be adjourned *sine die*.

# APPENDIX

TO THE

## REGISTER OF DEBATES IN CONGRESS.

### TWENTY-FIRST CONGRESS—SECOND SESSION.

LIST OF MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE U. STATES.

#### SENATE.

MAINE.—John Holmes, Peleg Sprague.  
 NEW HAMPSHIRE.—Samuel Bell, Levi Woodbury.  
 MASSACHUSETTS.—Nathaniel Silsbee, Dan'l Webster.  
 CONNECTICUT.—Samuel A. Foot, Calvin Willey.  
 RHODE ISLAND.—Nehemiah R. Knight, Asher Robbins.  
 VERMONT.—Dudley Chase, Horatio Seymour.  
 NEW YORK.—Nathan Sanford, Charles E. Dudley.  
 NEW JERSEY.—Theodore Frelinghuysen, Mahlon Dickerson.  
 PENNSYLVANIA.—William Marks, Isaac D. Barnard.  
 DELAWARE.—John M. Clayton, Arnold Naudain.  
 MARYLAND.—Samuel Smith, Ezekiel Chambers.  
 VIRGINIA.—J. W. Tazewell, John Tyler.  
 NORTH CAROLINA.—James Iredell, Bedford Brown.  
 SOUTH CAROLINA.—William Smith, Robert Y. Hayne.  
 GEORGIA.—George M. Troup, John Forsyth.  
 KENTUCKY.—John Rowan, George M. Bibb.  
 TENNESSEE.—Hugh L. White, Felix Grundy.  
 OHIO.—Benjamin Ruggles, Jacob Burnet.  
 LOUISIANA.—Josiah S. Johnston, Edward Livingston.  
 INDIANA.—William Hendricks, James Noble.  
 MISSISSIPPI.—Powhatan Ellis, George Poindexter.  
 ILLINOIS.—Elias K. Kane, David J. Baker.  
 ALABAMA.—John M'Kinley, William R. King.  
 MISSOURI.—David Barton, Thomas H. Benton.

#### HOUSE OF REPRESENTATIVES.

MAINE.—John Anderson, Samuel Butman, George Evans, Rufus McIntire, Cornelius Holland, Joseph F. Wingate, Leonard Jarvis.  
 NEW HAMPSHIRE.—John Brodhead, Thomas Chandler, Joseph Hammons, Jonathan Harvey, Henry Hubbard, John W. Weeks.  
 MASSACHUSETTS.—John Bailey, Isaac C. Bates, B. W. Crowninshield, John Davis, Henry W. Dwight, Edward Everett, Benjamin Gorham, George Grennell, jr., James L. Hodges, Joseph G. Kendall, John Reed, Joseph Richardson, John Varnum.  
 RHODE ISLAND.—Tristram Burges, Dutee J. Pearce.  
 CONNECTICUT.—Noyes Barber, William W. Ellsworth, J. W. Huntington, Ralph J. Ingersoll, W. L. Storrs, Ebenezer Young.  
 VERMONT.—William Cahoon, Horace Everett, Jonathan Hunt, Rollin C. Mallary, Benjamin Swift.  
 NEW YORK.—William G. Angel, Benedict Arnold, Thomas Beekman, Abraham Bockee, Peter I. Borst, C. C. Cambreleng, Jacob Crocheron, Timothy Childs, Henry B. Cowles, S. W. Eager, Charles G. Dewitt, John D. Dickinson, Jonas Earl, jr., Isaac Finch, Michael Hoffman, Joseph Hawkins, Jehiel H. Halsey, Perkins King, James Lent, John Magee, Henry C. Martindale, Robert Monell, Thomas Maxwell, E. F. Norton, Gershom Powers, Robert S. Rose, Jonah Sanford, Henry R. Storrs, James Strong, Ambrose Spencer, John W. Taylor, Phineas L. Tracy, Gulian C. Verplanck, Campbell P. White.  
 NEW JERSEY.—Lewis Condict, Richard M. Cooper, Thomas H. Hughes, Isaac Pierson, James P. Randolph, Samuel Swann.

PENNSYLVANIA.—James Buchanan, Richard Coulter, Thomas H. Crawford, Harnar Denny, Joshua Evans, Chauncey Forward, Joseph Fry, Jr., James Ford, Innis Green, John Gilmore, Joseph Hemphill, Peter Ihrie, jr., Thomas Irwin, Adam King, George G. Leiper, H. A. Muhlenburg, Alem Marr, Daniel H. Miller, William M'Cree, William Ramsay, John Scott, Philander Stephens, John B. Sterigere, Joel B. Sutherland, Samuel A. Smith, Thomas H. Sill.

DELAWARE.—Kenscy Johns, Jr.

MARYLAND.—Elias Brown, Clement Dorsey, Benj. C. Howard, George E. Mitchell, Michael C. Sprigg, Benedict T. Semmes, Richard Spencer, George C. Washington, Ephraim K. Wilson.

VIRGINIA.—Mark Alexander, Robert Allen, William S. Archer, William Armstrong, John S. Barber, John M. Patton, J. T. Boulding, Richard Coke, Jr., Nathaniel H. Claiborne, Robert B. Craig, Philip Doddridge, Thomas Davenport, William F. Gordon, Lewis Maxwell, Charles F. Mercer, William M'Coy, Geo. Loyall, John Roane, Joseph Draper, Andrew Stevenson, John Taliaferro, James Trezvant.

NORTH CAROLINA.—Willis Alston, Daniel L. Barringer, Samuel P. Carson, H. W. Comer, Edmund Deberry, Edward B. Dudley, Thomas H. Hall, Robert Potter, Wm. B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams, Abraham Rencher.

SOUTH CAROLINA.—Robert W. Barnwell, James Blair, John Campbell, Warren R. Davis, Wm. Drayton, Wm. D. Martin, George M'Duffie, Wm. T. Nuckolls, Starling Tucker.

GEORGIA.—Thomas F. Foster, Charles E. Haynes, Wilson Lumpkin, Henry G. Lamar, Wiley Thompson, Richard H. Wilde, James M. Wayne.

KENTUCKY.—James Clark, N. D. Coleman, Thomas Chilton, Henry Daniel, Nathaniel Gaither, R. M. Johnson, John Kincaid, Joseph Lecompte, Chittenden Lyon, Robert P. Letcher, Charles A. Wickliffe, Joel Yancey.

TENNESSEE.—John Blair, John Bell, David Crockett, Robert Desha, Jacob C. Isaacks, Cave Johnson, Pryor Lea, James K. Polk, James Standefer.

OHIO.—Mordecai Bartley, Joseph H. Crane, William Creighton, James Findlay, Wm. W. Irvin, William Kenyon, Humphrey H. Leavitt, Wm. Russell, Wm. Stanberry, James Shields, John Thompson, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey.

LOUISIANA.—Henry H. Gurley, W. H. Overton, Edward D. White.

INDIANA.—Ratliff Boon, Jonathan Jennings, John Test.

ALABAMA.—R. E. B. Baylor, C. C. Clay, Dixon H. Lewis.

MISSISSIPPI.—Thomas Hinds.

ILLINOIS.—Joseph Duncan.

MISSOURI.—Spencer Pettis.

#### Delegates.

MICHIGAN TERRITORY.—John Biddle.  
 ARKANSAS TERRITORY.—A. H. Sevier.  
 FLORIDA TERRITORY.—Joseph M. White.

21st Cong. 2d Sess.]

President's Message.

## MESSAGE OF THE PRESIDENT OF THE UNITED STATES,

TO BOTH HOUSES OF CONGRESS,  
At the commencement of the Second Session  
of the Twenty-first Congress.

DECEMBER 7, 1830.

*Fellow-Citizens of the Senate**and of the House of Representatives:*

The pleasure I have in congratulating you on your return to your constitutional duties is much heightened by the satisfaction which the condition of our beloved country at this period justly inspires. The beneficent Author of all good has granted to us, during the present year, health, peace, and plenty, and numerous causes for joy in the wonderful success which attends the progress of our free institutions.

With a population unparalleled in its increase, and possessing a character which combines the hardihood of enterprise with the considerateness of wisdom, we see in every section of our happy country a steady improvement in the means of social intercourse, and correspondent effects upon the genius and laws of our extended republic.

The apparent exceptions to the harmony of the prospect are to be referred rather to inevitable diversities in the various interests which enter into the composition of so extensive a whole, than to any want of attachment to the Union—interests whose collisions serve only, in the end, to foster the spirit of conciliation and patriotism, so essential to the preservation of that union which, I most devoutly hope, is destined to prove imperishable.

In the midst of these blessings, we have recently witnessed changes in the condition of other nations, which may, in their consequences, call for the utmost vigilance, wisdom, and unanimity, in our councils, and the exercise of all the moderation and patriotism of our people.

The important modifications of their Government, effected with so much courage and wisdom by the people of France, afford a happy presage of their future course, and has naturally elicited from the kindred feelings of this nation that spontaneous and universal burst of applause in which you have participated. In congratulating you, my fellow-citizens, upon an event so auspicious to the dearest interests of mankind, I do no more than respond to the voice of my country, without transcending, in the slightest degree, that salutary maxim of the illustrious Washington, which enjoins an abstinence from all interference with the internal affairs of other nations. From a people exercising, in the most unlimited degree, the right of self government, and enjoying, as derived from this proud characteristic, under the favor of heaven, much of the happiness with which they are blessed; a people who can point in triumph to their free institutions, and challenge comparison with the fruits they bear, as well as with the moderation, intelligence, and energy, with which they are administered; from such a people, the deepest sympathy was to be expected in a struggle for the sacred principles of liberty, conducted in a spirit every way worthy of the cause, and crowned by an heroic moderation which has disarmed revolution of its terrors. Notwithstanding the strong assurances which the man whom we so sincerely love and justly admire has given to the world of the high character of the present King of the French, and which, if sustained to the end, will secure to him the proud appellation of Patriot King, it is not in his success, but in that of the great principle which has borne him to the throne—the paramount authority of the public will—that the American people rejoice.

I am happy to inform you that the anticipations which were indulged at the date of my last communication on the subject of our foreign affairs, have been fully realized in several important particulars.

An arrangement has been effected with Great Britain, in relation to the trade between the United States and her West India and North American colonies, which has settled a question that has for years afforded matter for contention and almost uninterrupted discussion, and has been the subject of no less than six negotiations, in a manner which promises results highly favorable to the parties.

The abstract right of Great Britain to monopolize the trade with her colonies, or to exclude us from a participation therein, has never been denied by the U. States. But we have contended, and with reason, that if, at any time, Great Britain may desire the productions of this country as necessary to her colonies, they must be received upon principles of just reciprocity; and further, that it is making an invidious and unfriendly distinction, to open her colonial ports to the vessels of other nations, and close them against those of the United States.

Antecedently to 1794, a portion of our productions was admitted into the colonial islands of Great Britain, by particular concession, limited to the term of one year, but renewed from year to year. In the transportation of these productions, however, our vessels were not allowed to engage; this being a privilege reserved to British shipping, by which alone our produce could be taken to the islands, and theirs brought to us in return. From Newfoundland and her continental possessions, all our productions, as well as our vessels, were excluded, with occasional relaxations, by which, in seasons of distress, the former were admitted in British bottoms.

By the treaty of 1794, she offered to concede to us, for a limited time, the right of carrying to her West India possessions, in our vessels not exceeding seventy tons burden, and upon the same terms as British vessels, any productions of the United States which British vessels might import therefrom. But this privilege was coupled with conditions which are supposed to have led to its rejection by the Senate: that is, that American vessels should land their return cargoes in the United States only; and, moreover, that they should, during the continuance of the privilege, be precluded from carrying molasses, sugar, coffee, cocoa, or cotton, either from those islands or from the U. States, to any other part of the world. Great Britain readily consented to expunge this article from the treaty; and subsequent attempts to arrange the terms of the trade, either by treaty stipulations or concerted legislation, having failed, it has been successively suspended and allowed, according to the varying legislation of the parties.

The following are the prominent points which have, in later years, separated the two Governments. Besides a restriction, whereby all importations into her colonies in American vessels are confined to our own products carried hence, a restriction to which it does not appear that we have ever objected, a leading object on the part of Great Britain has been to prevent us from becoming the carriers of British West India commodities to any other country than our own. On the part of the United States, it has been contended, 1st. That the subject should be regulated by treaty stipulations in preference to separate legislation; 2d. That our productions, when imported into the colonies in question, should not be subject to higher duties than the productions of the mother country, or of her other colonial possessions; And, 3d. That our vessels should be allowed to participate in the circuitous trade between the United States and different parts of the British dominions.

The first point, after having been, for a long time, strenuously insisted upon by Great Britain, was given up by the act of Parliament of July, 1825; all vessels suffered to trade with the colonies being permitted to clear from thence with any articles which British vessels might export; and proceed to any part of the world, Great Britain and her dependencies alone excepted. On our

part, each of the above points had, in succession, been explicitly abandoned in negotiations preceding that of which the result is now announced.

This arrangement secures to the United States every advantage asked by them, and which the state of the negotiation allowed us to insist upon. The trade will be placed upon a footing decidedly more favorable to this country than any on which it ever stood; and our commerce and navigation will enjoy, in the colonial ports of Great Britain, every privilege allowed to other nations.

That the prosperity of the country, so far as it depends on this trade, will be greatly promoted by the new arrangement, there can be no doubt. Independently of the more obvious advantages of an open and direct intercourse, its establishment will be attended with other consequences of a higher value. That which has been carried on since the mutual interdict under all the expense and inconvenience unavoidably incident to it, would have been insupportably onerous, had it not been, in a great degree, lightened by concerted evasions in the mode of making the transshipments at what are called the neutral ports. These indirections are inconsistent with the dignity of nations that have so many motives, not only to cherish feelings of mutual friendship, but to maintain such relations as will stimulate their respective citizens and subjects to efforts of direct, open, and honorable competition only; and preserve them from the influence of seductive and vitiating circumstances.

When your preliminary interposition was asked at the close of the last session, a copy of the instructions under which Mr. McLane has acted, together with the communications which had at that time passed between him and the British Government, was laid before you. Although there has not been any thing in the acts of the two Governments which requires secrecy, it was thought most proper, in the then state of the negotiation, to make that communication a confidential one. So soon, however, as the evidence of execution on the part of Great Britain is received, the whole matter shall be laid before you, when it will be seen that the apprehension which appears to have suggested one of the provisions of the act passed at your last session, that the restoration of the trade in question might be connected with other subjects, and was sought to be obtained at the sacrifice of the public interest in other particulars, was wholly unfounded; and that the change which has taken place in the views of the British Government has been induced by considerations as honorable to both parties, as, I trust, the result will prove beneficial.

This desirable result was, it will be seen, greatly promoted by the liberal and confiding provisions of the act of Congress of the last session, by which our ports were, upon the reception and announcement by the President of the required assurance on the part of Great Britain, forthwith opened to her vessels, before the arrangement could be carried into effect on her part; pursuing, in this act of prospective legislation, a similar course to that adopted by Great Britain, in abolishing, by her act of Parliament, in 1825, a restriction then existing, and permitting our vessels to clear from the colonies, on their return voyages, for any foreign country whatever, before British vessels had been relieved from the restriction imposed by our law, of returning directly from the United States to the colonies—a restriction which she required and expected that we should abolish. Upon each occasion, a limited and temporary advantage has been given to the opposite party, but an advantage of no importance in comparison with the restoration of mutual confidence and good feelings, and the ultimate establishment of the trade upon fair principles.

It gives me unfeigned pleasure to assure you that this negotiation has been, throughout, characterised by the most frank and friendly spirit on the part of Great Bri-

tain, and concluded in a manner strongly indicative of a sincere desire to cultivate the best relations with the United States. To reciprocate this disposition to the fullest extent of my ability, is a duty which I shall deem it a privilege to discharge.

Although the result is, itself, the best commentary on the services rendered to his country by our Minister at the court of St. James, it would be doing violence to my feelings were I to dismiss the subject without expressing the very high sense I entertain of the talent and exertion which have been displayed by him on the occasion.

The injury to the commerce of the United States resulting from the exclusion of our vessels from the Black sea, and the previous footing of mere sufferance upon which even the limited trade enjoyed by us with Turkey has hitherto been placed, have, for a long time, been a source of much solicitude to this Government; and several endeavors have been made to obtain a better state of things. Sensible of the importance of the object, I felt it my duty to leave no proper means unemployed to acquire for our flag the same privileges that are enjoyed by the principal Powers of Europe. Commissioners were, consequently, appointed, to open a negotiation with the Sublime Porte. Not long after the member of the commission who went directly from the United States had sailed, the account of the treaty of Adrianople, by which one of the objects in view was supposed to be secured, reached this country. The Black Sea was understood to be opened to us. Under the supposition that this was the case, the additional facilities to be derived from the establishment of commercial regulations with the Porte were deemed of sufficient importance to require a prosecution of the negotiation as originally contemplated. It was therefore persevered in, and resulted in a treaty, which will be forthwith laid before the Senate.

By its provisions, a free passage is secured, without limitation of time, to the vessels of the United States, to and from the Black Sea, including the navigation thereof; and our trade with Turkey is placed on the footing of the most favored nation. The latter is an arrangement wholly independent of the treaty of Adrianople; and the former derives much value, not only from the increased security which, under any circumstances, it would give to the right in question, but from the fact, ascertained in the course of the negotiation, that, by the construction put upon that treaty by Turkey, the article relating to the passage of the Bosphorus is confined to nations having treaties with the Porte. The most friendly feelings appear to be entertained by the Sultan, and an enlightened disposition is evinced by him to foster the intercourse between the two countries by the most liberal arrangements. This disposition it will be our duty and interest to cherish.

Our relations with Russia are of the most stable character. Respect for that Empire, and confidence in its friendship towards the United States, have been so long entertained on our part, and so carefully cherished by the present Emperor and his illustrious predecessor, as to have become incorporated with the public sentiment of the United States. No means will be left unemployed on my part to promote these salutary feelings, and those improvements of which the commercial intercourse between the two countries is susceptible, and which have derived increased importance from our treaty with the Sublime Porte.

I sincerely regret to inform you that our Minister lately commissioned to that Court, on whose distinguished talents and great experience in public affairs I place great reliance, has been compelled, by extreme indisposition, to exercise a privilege, which, in consideration of the extent to which his constitution had been impaired in the public service, was committed to his discretion—of leaving temporarily his post for the advantage of a more genial climate.

If, as it is to be hoped, the improvement of his health should be such as to justify him in doing so, he will repair to St. Petersburg, and resume the discharge of his official duties. I have received the most satisfactory assurance that, in the mean time, the public interests in that quarter will be preserved from prejudice, by the intercourse which he will continue, through the Secretary of Legation, with the Russian cabinet.

You are apprised, although the fact has not yet been officially announced to the House of Representatives, that a treaty was, in the month of March last, concluded between the United States and Denmark, by which \$ 650,000 are secured to our citizens as an indemnity for spoiliations upon their commerce in the years 1808, 1809, 1810, and 1811. This treaty was sanctioned by the Senate at the close of its last session, and it now becomes the duty of Congress to pass the necessary laws for the organization of the Board of Commissioners to distribute the indemnity amongst the claimants. It is an agreeable circumstance of this adjustment, that its terms are in conformity with the previously ascertained views of the claimants themselves; thus removing all pretence for a future agitation of the subject in any form.

The negotiations in regard to such points in our foreign relations as remained to be adjusted, have been actively prosecuted during the recess. Material advances have been made, which are of a character to promise favorable results. Our country, by the blessing of God, is not in a situation to invite aggression; and it will be our fault if she ever becomes so. Sincerely desirous to cultivate the most liberal and friendly relations with all; ever ready to fulfil our engagements with scrupulous fidelity; limiting our demands upon others to mere justice; holding ourselves ever ready to do unto them as we would wish to be done by, and avoiding even the appearance of undue partiality to any Nation, it appears to me impossible that a simple and sincere application of our principles to our foreign relations can fail to place them ultimately upon the footing on which it is our wish they should rest.

Of the points referred to, the most prominent are, our claims upon France for spoiliations upon our commerce; similar claims upon Spain, together with embarrassments in the commercial intercourse between the two countries, which ought to be removed; the conclusion of the treaty of commerce and navigation with Mexico, which has been so long in suspense, as well as the final settlement of limits between ourselves and that republic; and finally the arbitration of the question between the United States and Great Britain in regard to the northeastern boundary.

The negotiation with France has been conducted by our Minister with zeal and ability, and in all respects to my entire satisfaction. Although the prospect of a favorable termination was occasionally dimmed by counter-pretensions, to which the United States could not assent, he yet had strong hopes of being able to arrive at a satisfactory settlement with the late Government. The negotiation has been renewed with the present authorities; and, sensible of the general and lively confidence of our citizens in the justice and magnanimity of regenerated France, I regret the more not to have it in my power, yet, to announce the result so confidently anticipated. No ground, however, inconsistent with this expectation, has been taken; and I do not allow myself to doubt that justice will soon be done to us. The amount of the claims, the length of time they have remained unsatisfied, and their incontrovertible justice, make an earnest prosecution of them by this Government an urgent duty. The illegality of the seizures and confiscations out of which they have arisen is not disputed; and whatever distinctions may have heretofore been set up in regard to the liability of the existing Government, it is quite clear that such considerations cannot now be interposed.

The commercial intercourse between the two countries is susceptible of highly advantageous improvements; but the sense of this injury has had, and must continue to have, a very unfavorable influence upon them. From its satisfactory adjustment, not only a firm and cordial friendship, but a progressive development of all their relations, may be expected. It is, therefore, my earnest hope that this old and vexatious subject of difference may be speedily removed.

I feel that my confidence in our appeal to the motives which should govern a just and magnanimous Nation, is alike warranted by the character of the French people, and by the high vouchery we possess for the enlarged views and pure integrity of the monarch who now presides over their councils; and nothing shall be wanting on my part to meet any manifestation of the spirit we anticipate in one of corresponding frankness and liberality.

The subjects of difference with Spain have been brought to the view of that Government, by our Minister there, with much force and propriety; and the strongest assurances have been received of their early and favorable consideration.

The steps which remained to place the matter in controversy between Great Britain and the United States fairly before the arbitrator, have all been taken in the same liberal and friendly spirit which characterized those before announced. Recent events have doubtless served to delay the decision, but our Minister at the Court of the distinguished arbitrator has been assured that it will be made within the time contemplated by the treaty.

I am particularly gratified in being able to state that a decidedly favorable, and, as I hope, lasting change has been effected in our relations with the neighboring republic of Mexico. The unfortunate and unfounded suspicions in regard to our disposition, which it became my painful duty to advert to on a former occasion, have been, I believe, entirely removed; and the Government of Mexico has been made to understand the real character of the wishes and views of this in regard to that country. The consequence is, the establishment of friendship and mutual confidence. Such are the assurances which I have received, and I see no cause to doubt their sincerity.

I had reason to expect the conclusion of a commercial treaty with Mexico in season for communication on the present occasion. Circumstances which are not explained, but which, I am persuaded, are not the result of an indisposition on her part to enter into it, have produced the delay.

There was reason to fear, in the course of the last summer, that the harmony of our relations might be disturbed by the acts of certain claimants, under Mexican grants, of territory which has hitherto been under our jurisdiction. The co-operation of the representative of Mexico near this Government was asked on the occasion, and was readily afforded. Instructions and advice have been given to the Governor of Arkansas and the Officers in command in the adjoining Mexican State, by which, it is hoped, the quiet of that frontier will be preserved, until a final settlement of the dividing line shall have removed all ground of controversy.

The exchange of ratification of the treaty concluded last year with Austria has not yet taken place. The delay has been occasioned by the non-arrival of the ratification of that Government within the time prescribed by the treaty. Renewed authority has been asked for by the representative of Austria; and, in the mean time, the rapidly increasing trade and navigation between the two countries have been placed upon the most liberal footing of our navigation acts.

Several alleged depredations have been recently committed on our commerce by the national vessels of Portugal. They have been made the subject of immediate remonstrance and reclamation. I am not yet possessed



of sufficient information to express a definitive opinion of their character, but expect soon to receive it. No proper means shall be omitted to obtain for our citizens all the redress to which they may appear to be entitled.

Almost at the moment of the adjournment of your last session, two bills, the one entitled "An act for making appropriations for building light-houses, light-boats, beacons, and monuments, placing buoys, and for improving harbors and directing surveys," and the other, "An act to authorize a subscription for stock in the Louisville and Portland Canal Company," were submitted for my approval. It was not possible, within the time allowed me, before the close of the session, to give these bills the consideration which was due to their character and importance; and I was compelled to retain them for that purpose. I now avail myself of this early opportunity to return them to the Houses in which they respectively originated, with the reasons which, after mature deliberation, compel me to withhold my approval.

The practice of defraying out of the Treasury of the United States the expenses incurred by the establishment and support of light-houses, beacons, buoys, and public piers, within the bays, inlets, harbors, and ports of the United States, to render the navigation thereof safe and easy, is coeval with the adoption of the Constitution, and has been continued without interruption or dispute.

As our foreign commerce increased, and was extended into the interior of the country by the establishment of ports of entry and delivery upon our navigable rivers, the sphere of those expenditures received a corresponding enlargement. Light-houses, beacons, buoys, public piers, and the removal of sand bars, sawyers, and other partial or temporary impediments in the navigable rivers and harbors which were embraced in the revenue districts from time to time established by law, were authorized upon the same principle, and the expense defrayed in the same manner. That these expenses have at times been extravagant and disproportionate, is very probable. The circumstances under which they are incurred, are well calculated to lead to such a result, unless their application is subjected to the closest scrutiny. The local advantages arising from the disbursement of public money too frequently, it is to be feared, invite appropriations for objects of this character that are neither necessary nor useful. The number of light-house keepers is already very large, and the bill before me proposes to add to it fifty-one more, of various descriptions. From representations upon the subject which are understood to be entitled to respect, I am induced to believe that there has not only been great improvidence in the past expenditures of the Government upon these objects, but that the security of navigation has, in some instances, been diminished by the multiplication of light-houses, and consequent change of lights, upon the coast. It is in this, as in other respects, our duty to avoid all unnecessary expense, as well as every increase of patronage not called for by the public service. But, in the discharge of that duty in this particular, it must not be forgotten that, in relation to our foreign commerce, the burden and benefit of protecting and accommodating it necessarily go together, and must do so as long as the public revenue is drawn from the people through the custom house. It is indisputable, that whatever gives facility and security to navigation, cheapens imports; and all who consume them are alike interested in whatever produces this effect. If they consume, they ought, as they now do, to pay; otherwise, they do not pay. The consumer in the most inland State derives the same advantage from every necessary and prudent expenditure for the facility and security of our foreign commerce and navigation, that he does who resides in a maritime State. Local expenditures have not, of themselves, a correspondent operation.

From a bill making *direct* appropriations for such ob-

jects, I should not have withheld my assent. The one now returned does so in several particulars, but it also contains appropriations for surveys of a local character, which I cannot approve. It gives me satisfaction to find that no serious inconvenience has arisen from withholding my approval from this bill; nor will it, I trust, be cause of regret that an opportunity will be thereby afforded for Congress to review its provisions under circumstances better calculated for full investigation than those under which it was passed.

In speaking of direct appropriations, I mean not to include a practice which has obtained to some extent, and to which I have, in one instance, in a different capacity, given my assent—that of subscribing to the stock of private associations. Positive experience, and a more thorough consideration of the subject, have convinced me of the impropriety as well as inexpediency of such investments. All improvements effected by the funds of the nation, for general use, should be open to the enjoyment of all our fellow citizens, exempt from the payment of tolls, or any imposition of that character. The practice of thus mingling the concerns of the Government with those of the States or of individuals, is inconsistent with the object of its institution, and highly impolitic. The successful operation of the federal system can only be preserved by confining it to the few and simple, but yet important objects for which it was designed.

A different practice, if allowed to progress, would ultimately change the character of this Government, by consolidating into one the General and State Governments, which were intended to be kept forever distinct. I cannot perceive how bills authorizing such subscriptions can be otherwise regarded than as bills for revenue, and consequently subject to the rule in that respect prescribed by the Constitution. If the interest of the Government in private companies is subordinate to that of individuals, the management and control of a portion of the public funds is delegated to an authority unknown to the Constitution, and beyond the supervision of our constituents: if superior, its officers and agents will be constantly exposed to imputations of favoritism and oppression. Direct prejudice to the public interest, or an alienation of the affections and respect of portions of the people, may, therefore, in addition to the general discredit resulting to the Government from embarking with its constituents in pecuniary speculations, be looked for as the probable fruit of such associations. It is no answer to this objection to say that the extent of consequences like these cannot be great from a limited and small number of investments: because experience in other matters teaches us, and we are not at liberty to disregard its admonitions, that, unless an entire stop be put to them, it will soon be impossible to prevent their accumulation, until they are spread over the whole country, and made to embrace many of the private and appropriate concerns of individuals.

The power which the General Government would acquire within the several States by becoming the principal stockholder in corporations, controlling every canal and each sixty or hundred miles of every important road, and giving a proportionate vote in all their elections, is almost inconceivable, and, in my view, dangerous to the liberties of the people.

This mode of aiding such works is, also, in its nature, deceptive, and in many cases conducive to improvidence in the administration of the national funds. Appropriations will be obtained with much greater facility, and granted with less security to the public interest, when the measure is thus disguised, than when definite and direct expenditures of money are asked for. The interests of the nation would doubtless be better served by avoiding all such indirect modes of aiding particular objects. In a Government like ours, more especially, should all

public acts be, as far as practicable, simple, undisguised, and intelligible, that they may become fit subjects for the approbation or animadversion of the people. The bill authorizing a subscription to the Louisville and Portland canal affords a striking illustration of the difficulty of withholding additional appropriations for the same object, when the first erroneous step has been taken by instituting a partnership between the Government and private companies. It proposes a third subscription on the part of the United States, when each preceding one was at the time regarded as the extent of the aid which Government was to render to that work; and the accompanying bill for light-houses, &c. contains an appropriation for a survey of the bed of the river, with a view to its improvement, by removing the obstruction which the canal is designed to avoid. This improvement, if successful, would afford a free passage to the river, and render the canal entirely useless. To such improvidence is the course of legislation subject, in relation to internal improvements on local matters, even with the best intentions on the part of Congress.

Although the motives which have influenced me in this matter may be already sufficiently stated, I am, nevertheless, induced by its importance to add a few observations of a general character.

In my objections to the bills authorizing subscriptions to the Maysville and Rockville Road Companies, I expressed my views fully in regard to the power of Congress, to construct roads and canals within a State, or to appropriate money for improvements of a local character. I, at the same time, intimated my belief that the right to make appropriations for such as were of a national character had been so generally acted upon, and so long acquiesced in by the Federal and State Governments, and the constituents of each, as to justify its exercise on the ground of continued and uninterrupted usage; but that it was, nevertheless, highly expedient that appropriations, even of that character, should, with the exception made at the time, be deferred until the national debt is paid, and that, in the mean while, some general rule for the action of the Government in that respect ought to be established.

These suggestions were not necessary to the decision of the question then before me, and were, I readily admit, intended to awaken the attention, and draw forth the opinions and observations, of our constituents, upon a subject of the highest importance to their interests, and one destined to exert a powerful influence upon the future operations of our political system. I know of no tribunal to which a public man in this country, in a case of doubt and difficulty, can appeal with greater advantage or more propriety, than the judgment of the people; and although I must necessarily, in the discharge of my official duties, be governed by the dictates of my own judgment, I have no desire to conceal my anxious wish to conform, as far as I can, to the views of those for whom I act.

All irregular expressions of public opinion are of necessity attended with some doubt as to their accuracy; but, making full allowances on that account, I cannot, I think, deceive myself in believing that the acts referred to, as well as the suggestions which I allowed myself to make in relation to their bearing upon the future operations of the Government, have been approved by the great body of the people. That those whose immediate pecuniary interests are to be affected by proposed expenditures should shrink from the application of a rule which prefers their more general and remote interests to those which are personal and immediate, is to be expected. But even such objections must, from the nature of our population, be but temporary in their duration; and if it were otherwise, our course should be the same, for the time is yet, I hope, far distant, when those entrusted with power to be exercised for the good of the whole, will

consider it either honest or wise to purchase local favor at the sacrifice of principle and the general good.

So understanding public sentiment, and thoroughly satisfied that the best interests of our common country imperiously require that the course which I have recommended in this regard should be adopted, I have, upon the most mature consideration, determined to pursue it.

It is due to candor, as well as to my own feelings, that I should express the reluctance and anxiety which I must at all times experience in exercising the undoubted right of the Executive to withhold his assent from bills on other grounds than their unconstitutionality. That this right should not be exercised on slight occasions, all will admit. It is only in matters of deep interest, when the principle involved may be justly regarded as next in importance to infractions of the Constitution itself, that such a step can be expected to meet with the approbation of the people. Such an occasion do I conscientiously believe the present to be. In the discharge of this delicate and highly responsible duty, I am sustained by the reflection that the exercise of this power has been deemed consistent with the obligation of official duty by several of my predecessors; and by the persuasion, too, that, whatever liberal institutions may have to fear from the encroachments of Executive power, which has been every where the cause of so much strife and bloody contention, but little danger is to be apprehended from a precedent by which that authority denies to itself the exercise of powers that bring in their train influence and patronage of great extent; and thus excludes the operation of personal interests, every where the bane of official trust. I derive, too, no small degree of satisfaction from the reflection, that, if I have mistaken the interests and wishes of the people, the Constitution affords the means of soon redressing the error, by selecting for the place their favor has bestowed upon me a citizen whose opinions may accord with their own. I trust, in the mean time, the interests of the nation will be saved from prejudice, by a rigid application of that portion of the public funds which might otherwise be applied to different objects to that highest of all our obligations, the payment of the public debt, and an opportunity be afforded for the adoption of some better rule for the operations of the Government in this matter than any which has hitherto been acted upon.

Profoundly impressed with the importance of the subject, not merely as it relates to the general prosperity of the country, but to the safety of the federal system, I cannot avoid repeating my earnest hope that all good citizens, who take a proper interest in the success and harmony of our admirable political institutions; and who are incapable of desiring to convert an opposite state of things into means for the gratification of personal ambition—will, laying aside minor considerations, and discarding local prejudices, unite their honest exertions to establish some fixed general principle, which shall be calculated to effect the greatest extent of public good in regard to the subject of internal improvement, and afford the least ground for sectional discontent.

The general ground of my objection to local appropriations has been heretofore expressed; and I shall endeavor to avoid a repetition of what has been already urged—the importance of sustaining the State sovereignties, as far as is consistent with the rightful action of the Federal Government, and of preserving the greatest attainable harmony between them. I will now only add an expression of my conviction—a conviction which every day's experience serves to confirm—that the political creed which inculcates the pursuit of those great objects as a paramount duty is the true faith, and one to which we are mainly indebted for the present success of the entire system, and to which we must alone look for its future stability.

That there are diversities in the interests of the different States which compose this extensive confederacy, must be admitted. Those diversities, arising from situation, climate, population, and pursuits, are doubtless, as it is natural they should be, greatly exaggerated by jealousies, and that spirit of rivalry so inseparable from neighboring communities. These circumstances make it the duty of those who are entrusted with the management of its affairs to neutralize their effects as far as practicable, by making the beneficial operation of the Federal Government as equal and equitable among the several States as can be done consistently with the great ends of its institution.

It is only necessary to refer to undoubted facts, to see how far the past acts of the Government upon the subject under consideration have fallen short of this object. The expenditures heretofore made for internal improvements amount to upwards of five millions of dollars, and have been distributed in very unequal proportions amongst the States. The estimated expense of works of which surveys have been made, together with that of others projected and partially surveyed, amount to more than ninety-six millions of dollars.

That such improvements, on account of particular circumstances, may be more advantageously and beneficially made in some States than in others, is doubtless true; but that they are of a character which should prevent an equitable distribution of the funds amongst the several States, is not to be conceded. The want of this equitable distribution cannot fail to prove a prolific source of irritation amongst the States.

We have it constantly before our eyes, that professions of superior zeal in the cause of internal improvement, and a disposition to lavish the public funds upon objects of that character, are daily and earnestly put forth by aspirants to power, as constituting the highest claims to the confidence of the people. Would it be strange, under such circumstances, and in times of great excitement, that grants of this description should find their motives in objects which may not accord with the public good? Those who have not had occasion to see and regret the indication of a sinister influence in these matters in past times, have been more fortunate than myself in their observation of the course of public affairs. If to these evils be added the combinations and angry contentions to which such a course of things gives rise, with their baleful influences upon the legislation of Congress touching the leading and appropriate duties of the Federal Government, it was but doing justice to the character of our people to expect the severe condemnation of the past which the recent exhibition of public sentiment has evinced.

Nothing short of a radical change in the action of the Government upon the subject, can, in my opinion, remedy the evil. If, as it would be natural to expect, the States which have been least favored in past appropriations should insist on being redressed in those hereafter to be made, at the expense of the States which have so largely and disproportionately participated, we have, as matters now stand, but little security that the attempt would do more than change the inequality from one quarter to another.

Thus viewing the subject, I have heretofore felt it my duty to recommend the adoption of some plan for the distribution of the surplus funds which may at any time remain in the treasury after the national debt shall have been paid, among the States, in proportion to the number of their representatives, to be applied by them to objects of internal improvement.

Although this plan has met with favor in some portions of the Union, it has also elicited objections which merit deliberate consideration. A brief notice of these objections here will not, therefore, I trust, be regarded as out of place.

They rest, as far as they have come to my knowledge, on the following grounds: 1st, an objection to the ratio of distribution; 2d, an apprehension that the existence of such a regulation would produce improvident and oppressive taxation to raise the funds for distribution; 3d, that the mode proposed would lead to the construction of works of a local nature, to the exclusion of such as are general, and as would consequently be of a more useful character; and, last, that it would create a discreditable and injurious dependence, on the part of the State Governments, upon the federal power. Of those who object to the ratio of representation as the basis of distribution, some insist that the importations of the respective States would constitute one that would be more equitable; and others, again, that the extent of their respective territories would furnish a standard which would be more expedient, and sufficiently equitable. The ratio of representation presented itself to my mind, and it still does, as one of obvious equity, because of its being the ratio of contribution, whether the funds to be distributed be derived from the customs or from direct taxation. It does not follow, however, that its adoption is indispensable to the establishment of the system proposed. There may be considerations appertaining to the subject which would render a departure, to some extent, from the rule of contribution, proper. Nor is it absolutely necessary that the basis of distribution be confined to one ground. It may, if, in the judgment of those whose right it is to fix it, it be deemed politic and just to give it that character, have regard to several.

In my first message, I stated it to be my opinion that "it is not probable that any adjustment of the tariff upon principles satisfactory to the people of the Union, will, until a remote period, if ever, leave the Government without a considerable surplus in the treasury beyond what may be required for its current service." I have had no cause to change that opinion, but much to confirm it. Should these expectations be realized, a suitable fund would thus be produced for the plan under consideration to operate upon; and if there be no such fund, its adoption will, in my opinion, work no injury to any interest; for I cannot assent to the justness of the apprehension that the establishment of the proposed system would tend to the encouragement of improvident legislation of the character supposed. Whatever the proper authority, in the exercise of constitutional power, shall, at any time hereafter, decide to be for the general good, will, in that as in other respects, deserve and receive the acquiescence and support of the whole country; and we have ample security that every abuse of power in that regard, by the agents of the people, will receive a speedy and effectual corrective at their hands. The views which I take of the future, founded on the obvious and increasing improvement of all classes of our fellow-citizens, in intelligence, and in public and private virtue, leave me without much apprehension on that head.

I do not doubt that those who come after us will be as much alive as we are to the obligation upon all the trustees of political power to exempt those for whom they act from all unnecessary burdens; and as sensible of the great truth, that the resources of the nation, beyond those required for the immediate and necessary purposes of Government, can no where be so well deposited as in the pockets of the people.

It may sometimes happen that the interests of particular States would not be deemed to coincide with the general interest in relation to improvement within such States. But, if the danger to be apprehended from this source is sufficient to require it, a discretion might be reserved to Congress to direct, to such improvements of a general character as the States concerned might not be disposed to unite in, the application of the quotas of those States, under the restriction of confining to each State the ex-

penditure of its appropriate quota. It may, however, be assumed as a safe general rule, that such improvements as serve to increase the prosperity of the respective States in which they are made, by giving new facilities to trade, and thereby augmenting the wealth and comfort of their inhabitants, constitute the surest mode of conferring permanent and substantial advantages upon the whole. The strength, as well as the true glory, of the confederacy, is mainly founded on the prosperity and power of the several independent sovereignties of which it is composed, and the certainty with which they can be brought into successful, active co-operation, through the agency of the Federal Government.

It is, moreover, within the knowledge of such as are at all conversant with public affairs, that schemes of internal improvement have, from time to time, been proposed, which, from their extent and seeming magnificence, were regarded as of national concernment; but which, upon fuller consideration and further experience, would now be rejected with great unanimity.

That the plan under consideration would derive important advantages from its certainty; and that the moneys set apart for these purposes would be more judiciously applied and economically expended under the direction of the State Legislatures, in which every part of each State is immediately represented, cannot, I think, be doubted. In the new States particularly, where a comparatively small population is scattered over an extensive surface, and the representation in Congress consequently very limited, it is natural to expect that the appropriations made by the Federal Government would be more likely to be expended in the vicinity of those members through whose immediate agency they were obtained, than if the funds were placed under the control of the Legislature, in which every county of the State has its own representative. This supposition does not necessarily impugn the motives of such Congressional representatives, nor is it so intended. We are all sensible of the bias to which the strongest minds and purest hearts are, under such circumstances, liable. In respect to the last objection, its probable effect upon the dignity and independence of the State Governments, it appears to me only necessary to state the case as it is, and as it would be if the measure proposed were adopted, to show that the operation is most likely to be the very reverse of that which the objection supposes.

In the one case, the State would receive its quota of the national revenue for domestic use, upon a fixed principle, as a matter of right, and from a fund to the creation of which it had itself contributed its fair proportion. Surely there could be nothing derogatory in that. As matters now stand, the States themselves, in their sovereign character, are not unfrequently petitioners at the bar of the Federal Legislature for such allowances out of the national treasury as it may comport with their pleasure or sense of duty to bestow upon them. It cannot require argument to prove which of the two courses is most compatible with the efficiency or respectability of the State Governments.

But all these are matters for discussion and dispassionate consideration. That the desired adjustment would be attended with difficulty, affords no reason why it should not be attempted. The effective operation of such motives would have prevented the adoption of the Constitution under which we have so long lived, and under the benign influence of which our beloved country has so signally prospered. The framers of that sacred instrument had greater difficulties to overcome, and they did overcome them. The patriotism of the people, directed by a deep conviction of the importance of the Union, produced mutual concession and reciprocal forbearance. Strict right was merged in a spirit of compromise, and the result has consecrated their disinterested devotion to the

general weal. Unless the American people have degenerated, the same result can be again effected, whenever experience points out the necessity of a resort to the same means to uphold the fabric which their fathers have reared. It is beyond the power of man to make a system of government like ours, or any other, operate with precise equality upon States situated like those which compose this Confederacy; nor is inequality always injustice. Every State cannot expect to shape the measures of the General Government to suit its own particular interests. The causes which prevent it are seated in the nature of things, and cannot be entirely counteracted by human means. Mutual forbearance, therefore, becomes a duty obligatory upon all; and we may, I am confident, count on a cheerful compliance with this high injunction, on the part of our constituents. It is not to be supposed that they will object to make such comparatively inconsiderable sacrifices for the preservation of rights and privileges, which other less favored portions of the world have in vain waded through seas of blood to acquire.

Our course is a safe one, if it be but faithfully adhered to. Acquiescence in the constitutionally expressed will of the majority, and the exercise of that will in a spirit of moderation, justice, and brotherly kindness, will constitute a cement which would forever preserve our Union. Those who cherish and inculcate sentiments like these, render a most essential service to their country; whilst those who seek to weaken their influence, are, however conscientious and praiseworthy their intentions, in effect its worst enemies.

If the intelligence and influence of the country, instead of laboring to foment sectional prejudices, to be made subservient to party warfare, were, in good faith, applied to the eradication of causes of local discontent, by the improvement of our institutions, and by facilitating their adaptation to the condition of the times, this task would prove one of less difficulty. May we not hope that the obvious interests of our common country, and the dictates of an enlightened patriotism, will, in the end, lead the public mind in that direction.

After all, the nature of the subject does not admit of a plan wholly free from objection. That which has for some time been in operation is, perhaps, the worst that could exist; and every advance that can be made in its improvement is a matter eminently worthy of your most deliberate attention.

It is very possible that one better calculated to effect the objects in view may yet be devised. If so, it is to be hoped that those who disapprove of the past, and dissent from what is proposed for the future, will feel it their duty to direct their attention to it, as they must be sensible that, unless some fixed rule for the action of the Federal Government in this respect is established, the course now attempted to be arrested will be again resorted to. Any mode which is calculated to give the greatest degree of effect and harmony to our legislation upon the subject—which shall best serve to keep the movements of the Federal Government within the sphere intended by those who modelled and those who adopted it—which shall lead to the extinguishment of the national debt in the shortest period, and impose the lightest burdens upon our constituents, shall receive from me a cordial and firm support.

Among the objects of great national concern, I cannot omit to press again upon your attention that part of the Constitution which regulates the election of President and Vice President. The necessity for its amendment is made so clear to my mind by the observation of its evils, and by the many able discussions which they have elicited on the floor of Congress and elsewhere, that I should be wanting to my duty were I to withhold another expression of my deep solicitude upon the subject. Our system fortunately contemplates a recurrence to first prin-

ciples, differing, in this respect, from all that have preceded it, and securing it, I trust, equally against the decay and the commotions which have marked the progress of other Governments. Our fellow-citizens, too, who, in proportion to their love of liberty, keep a steady eye upon the means of sustaining it, do not require to be reminded of the duty they owe to themselves to remedy all essential defects in so vital a part of their system. While they are sensible that every evil attendant upon its operation is not necessarily indicative of a bad organization, but may proceed from temporary causes, yet the habitual presence, or even a single instance of evils which can be clearly traced to an organic defect, will not, I trust, be overlooked through a too scrupulous veneration for the work of their ancestors. The Constitution was an experiment committed to the virtue and intelligence of the great mass of our countrymen, in whose ranks the framers of it themselves were to perform the part of patriotic observation and scrutiny; and if they have passed from the stage of existence with an increased confidence in its general adaptation to our condition, we should learn from authority so high the duty of fortifying the points in it which time proves to be exposed, rather than be deterred from approaching them by the suggestions of fear, or the dictates of misplaced reverence.

A provision which does not secure to the people a direct choice of their Chief Magistrate, but has a tendency to defeat their will, presented to my mind such an inconsistency with the general spirit of our institutions, that I was induced to suggest for your consideration the substitute which appeared to me at the same time the most likely to correct the evil and to meet the views of our constituents. The most mature reflection since has added strength to the belief that the best interests of our country require the speedy adoption of some plan calculated to effect this end. A contingency which sometimes places it in the power of a single member of the House of Representatives to decide an election of so high and solemn a character, is unjust to the people, and becomes, when it occurs, a source of embarrassment to the individuals thus brought into power, and a cause of distrust of the representative body. Liable as the confederacy is, from its great extent, to parties founded upon sectional interests, and to a corresponding multiplication of candidates for the Presidency, the tendency of the constitutional reference to the House of Representatives, is, to devolve the election upon that body in almost every instance, and, whatever choice may then be made among the candidates thus presented to them, to swell the influence of particular interests to a degree inconsistent with the general good. The consequences of this feature of the Constitution appear far more threatening to the peace and integrity of the Union than any which I can conceive as likely to result from the simple legislative action of the Federal Government.

It was a leading object with the framers of the Constitution to keep as separate as possible the action of the Legislative and Executive branches of the Government. To secure this object, nothing is more essential than to preserve the former from the temptations of private interest, and, therefore, so to direct the patronage of the latter as not to permit such temptations to be offered. Experience abundantly demonstrates that every precaution in this respect is a valuable safeguard of liberty, and one which my reflections upon the tendencies of our system incline me to think should be made still stronger. It was for this reason that, in connexion with an amendment of the Constitution, removing all intermediate agency in the choice of the President, I recommended some restrictions upon the re-eligibility of that officer, and upon the tenure of offices generally. The reason still exists; and I renew the re-

commendation, with an increased confidence that its adoption will strengthen those checks by which the Constitution designed to secure the independence of each department of the Government, and promote the healthful and equitable administration of all the trusts which it has created. The agent most likely to contravene this design of the Constitution is the Chief Magistrate. In order, particularly, that his appointment may, as far as possible, be placed beyond the reach of any improper influences; in order, that he may approach the solemn responsibilities of the highest office in the gift of a free people, uncommitted to any other course than the strict line of constitutional duty; and that the securities for this independence may be rendered as strong as the nature of power, and the weakness of its possessor, will admit, I cannot too earnestly invite your attention to the propriety of promoting such an amendment of the Constitution as will render him ineligible after one term of service.

It gives me pleasure to announce to Congress that the benevolent policy of the Government, steadily pursued for nearly thirty years, in relation to the removal of the Indians beyond the white settlements, is approaching to a happy consummation. Two important tribes have accepted the provision made for their removal at the last session of Congress; and it is believed that their example will induce the remaining tribes, also, to seek the same obvious advantages.

The consequences of a speedy removal will be important to the United States, to individual States, and to the Indians themselves. The pecuniary advantages which it promises to the Government are the least of its recommendations. It puts an end to all possible danger of collision between the authorities of the General and State Governments, on account of the Indians. It will place a dense and civilized population in large tracts of country now occupied by a few savage hunters. By opening the whole territory between Tennessee on the north, and Louisiana on the south, to the settlement of the whites, it will incalculably strengthen the southwestern frontier, and render the adjacent States strong enough to repel future invasion without remote aid. It will relieve the whole State of Mississippi, and the western part of Alabama, of Indian occupancy, and enable those States to advance rapidly in population, wealth, and power. It will separate the Indians from immediate contact with settlements of whites; free them from the power of the States; enable them to pursue happiness in their own way, and under their own rude institutions; will retard the progress of decay, which is lessening their numbers; and perhaps cause them gradually, under the protection of the Government, and through the influence of good counsels, to cast off their savage habits, and become an interesting, civilized, and Christian community. These consequences, some of them so certain, and the rest so probable, make the complete execution of the plan sanctioned by Congress at their last session an object of much solicitude.

Toward the aborigines of the country no one can indulge a more friendly feeling than myself, or would go further in attempting to reclaim them from their wandering habits, and make them a happy and prosperous people. I have endeavored to impress upon them my own solemn convictions of the duties and powers of the General Government in relation to the State authorities. For the justice of the laws passed by the States within the scope of their reserved powers, they are not responsible to this Government. As individuals; we may entertain and express our opinions of their acts; but, as a Government, we have as little right to control them as we have to prescribe laws to foreign nations.

With a full understanding of the subject, the Choctaw and Chickasaw tribes have, with great unanimity, deter-



mined to avail themselves of the liberal offers presented by the act of Congress, and have agreed to remove beyond the Mississippi river. Treaties have been made with them, which, in due season, will be submitted for consideration. In negotiating these treaties, they were made to understand their true condition; and they have preferred maintaining their independence in the Western forests to submitting to the laws of the States in which they now reside. These treaties being probably the last which will ever be made with them, are characterized by great liberality on the part of the Government. They give the Indians a liberal sum in consideration of their removal, and comfortable subsistence on their arrival at their new homes. If it be their real interest to maintain a separate existence, they will there be at liberty to do so without the inconveniences and vexations to which they would unavoidably have been subject in Alabama and Mississippi.

Humanity has often wept over the fate of the aborigines of this country; and philanthropy has been long busily employed in devising means to avert it. But its progress has never for a moment been arrested; and one by one have many powerful tribes disappeared from the earth. To follow to the tomb the last of his race, and to tread on the graves of extinct nations, excites melancholy reflections. But true philanthropy reconciles the mind to these vicissitudes, as it does to the extinction of one generation to make room for another. In the monuments and fortresses of an unknown people, spread over the extensive regions of the West, we behold the memorials of a once powerful race, which was exterminated, or has disappeared, to make room for the existing savage tribes. Nor is there any thing in this, which, upon a comprehensive view of the general interests of the human race, is to be regretted. Philanthropy could not wish to see this continent restored to the condition in which it was found by our forefathers. What good man would prefer a country covered with forests, and ranged by a few thousand savages, to our extensive republic, studded with cities, towns, and prosperous farms; embellished with all the improvements which art can devise, or industry execute; occupied by more than twelve millions of happy people, and filled with all the blessings of liberty, civilization, and religion!

The present policy of the Government is but a continuation of the same progressive change, by a milder process. The tribes which occupied the countries now constituting the Eastern States were annihilated, or have melted away, to make room for the whites. The waves of population and civilization are rolling to the Westward; and we now propose to acquire the countries occupied by the red men of the South and West, by a fair exchange, and, at the expense of the U. States, to send them to a land where their existence may be prolonged, and perhaps made perpetual. Doubtless it will be painful to leave the graves of their fathers; but what do they more than our ancestors did, or than our children are now doing? To better their condition in an unknown land, our forefathers left all that was dear in earthly objects. Our children, by thousands, yearly leave the land of their birth, to seek new homes in distant regions. Does humanity weep at these painful separations from every thing, animate and inanimate, with which the young heart has become entwined? Far from it. It is rather a source of joy that our country affords scope where our young population may range unconstrained in body or in mind, developing the power and faculties of man in their highest perfection. These remove hundreds, and almost thousands of miles, at their own expense, purchase the lands they occupy, and support themselves at their new home from the moment of their arrival. Can it be cruel in this Government, when, by events which it cannot control, the Indian is made discontented in his ancient home, to purchase his lands, to give him a new and extensive terri-

tory, to pay the expense of his removal, and support him a year in his new abode? How many thousands of our own people would gladly embrace the opportunity of removing to the west on such conditions! If the offers made to the Indians were extended to them, they would be hailed with gratitude and joy.

And is it supposed that the wandering savage has a stronger attachment to his home, than the settled, civilized Christian? Is it more afflicting to him to leave the graves of his fathers, than it is to our brothers and children? Rightly considered, the policy of the General Government towards the red man is not only liberal but generous. He is unwilling to submit to the laws of the States, and mingle with their population. To save him from this alternative, or perhaps utter annihilation, the General Government kindly offers him a new home, and proposes to pay the whole expense of his removal and settlement.

In the consummation of a policy originating at an early period, and steadily pursued by every administration within the present century—so just to the States, and so generous to the Indians, the Executive feels it has a right to expect the co-operation of Congress, and of all good and disinterested men. The States, moreover, have a right to demand it. It was substantially a part of the compact which made them members of our confederacy. With Georgia, there is an express contract; with the new States, an implied one, of equal obligation. Why, in authorizing Ohio, Indiana, Illinois, Missouri, Mississippi, and Alabama, to form constitutions, and become separate States, did Congress include within their limits extensive tracts of Indian lands, and, in some instances, powerful Indian tribes? Was it not understood by both parties that the power of the States was to be co-extensive with their limits, and that, with all convenient despatch, the General Government should extinguish the Indian title, and remove every obstruction to the complete jurisdiction of the State Governments over the soil? Probably not one of those States would have accepted a separate existence—certainly it would never have been granted by Congress—had it been understood that they were to be confined forever to those small portions of their nominal territory, the Indian title to which had at the time been extinguished.

It is, therefore, a duty which this Government owes to the new States, to extinguish, as soon as possible, the Indian title to all lands which Congress themselves have included within their limits. When this is done, the duties of the General Government in relation to the States and Indians within their limits are at an end. The Indians may leave the State or not, as they choose. The purchase of their lands does not alter, in the least, their personal relations with the State Government. No act of the General Government has ever been deemed necessary to give the States jurisdiction over the persons of the Indians. That they possess, by virtue of their sovereign power within their own limits, in as full a manner before as after the purchase of the Indian lands; nor can this Government add to or diminish it.

May we not hope, therefore, that all good citizens, and none more zealously than those who think the Indians oppressed by subjection to the laws of the States, will unite in attempting to open the eyes of those children of the forest to their true condition, and, by a speedy removal, to relieve them from the evils, real or imaginary, present or prospective, with which they may be supposed to be threatened.

Among the numerous causes of congratulation, the condition of our impost revenue deserves special mention, inasmuch as it promises the means of extinguishing the public debt sooner than was anticipated, and furnishes a strong illustration of the practical effects of the present tariff upon our commercial interests.

The object of the tariff is objected to by some as unconstitutional; and it is considered by almost all as defective in many of its parts.

The power to impose duties on imports originally belonged to the several States. The right to adjust those duties with a view to the encouragement of domestic branches of industry is so completely incidental to that power, that it is difficult to suppose the existence of the one without the other. The States have delegated their whole authority over imports to the General Government, without limitation or restriction, saving the very inconsiderable reservation relating to their inspection laws.—This authority having thus entirely passed from the States, the right to exercise it for the purpose of protection does not exist in them; and, consequently, if it be not possessed by the General Government, it must be extinct. Our political system would thus present the anomaly of a people stripped of the right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely cannot be the case: this indispensable power, thus surrendered by the States, must be within the scope of the authority on the subject expressly delegated to Congress.

In this conclusion, I am confirmed as well by the opinions of Presidents Washington, Jefferson, Madison, and Monroe, who have each repeatedly recommended the exercise of this right under the Constitution, as by the uniform practice of Congress, the continued acquiescence of the States, and the general understanding of the people.

The difficulties of a more expedient adjustment of the present tariff, although great, are far from being insurmountable. Some are unwilling to improve any of its parts, because they would destroy the whole: others fear to touch the objectionable parts, lest those they approve should be jeopardied. I am persuaded that the advocates of these conflicting views do injustice to the American people, and to their Representatives. The general interest is the interest of each: and my confidence is entire, that, to ensure the adoption of such modifications of the tariff as the general interest requires, it is only necessary that that interest should be understood.

It is an infirmity of our nature to mingle our interests and prejudices with the operation of our reasoning powers, and attribute to the objects of our likes and dislikes qualities they do not possess, and effects they cannot produce. The effects of the present tariff are doubtless overrated, both in its evils and in its advantages. By one class of reasoners, the reduced price of cotton and other agricultural products is ascribed wholly to its influence, and by another, the reduced price of manufactured articles. The probability is, that neither opinion approaches the truth, and that both are induced by that influence of interests and prejudices to which I have referred. The decrease of prices extends throughout the commercial world, embracing not only the raw material and the manufactured article, but provisions and lands. The cause must, therefore, be deeper and more pervading than the tariff of the United States. It may, in a measure, be attributable to the increased value of the precious metals, produced by a diminution of the supply, and an increase in the demand; while commerce has rapidly extended itself, and population has augmented. The supply of gold and silver, the general medium of exchange, has been greatly interrupted by civil convulsions in the countries from which they are principally drawn. A part of the effect, too, is doubtless owing to an increase of operatives and improvements in machinery. But, on the whole, it is questionable whether the reduction in the price of lands, produce, and manufactures, has been greater than the appreciation of the standard of value.

While the chief object of duties should be revenue, they may be so adjusted as to encourage manufactures. In this adjustment, however, it is the duty of the Government to be guided by the general good. Objects of national importance, alone, ought to be protected; of these the productions of our soil, our mines, and our workshops, essential to national defence, occupy the first rank. Whatever other species of domestic industry, having the importance to which I have referred, may be expected, after temporary protection, to compete with foreign labor on equal terms, merit the same attention in a subordinate degree.

The present tariff taxes some of the comforts of life unnecessarily high; it undertakes to protect interests too local and minute, to justify a general exaction; and it also attempts to force some kinds of manufactures, for which the country is not ripe. Much relief will be derived, in some of these respects, from the measures of your last session.

The best, as well as fairest mode of determining whether, from any just considerations, a particular interest ought to receive protection, would be to submit the question singly for deliberation. If, after due examination of its merits, unconnected with extraneous considerations—such as a desire to sustain a general system, or to purchase support for a different interest—it should enlist in its favor a majority of the Representatives of the people, there can be little danger of wrong or injury in adjusting the tariff, with reference to its protective effect. If this obviously just principle were honestly adhered to, the branches of industry which deserve protection, would be saved from the prejudice excited against them, when that protection forms part of a system by which portions of the country feel, or conceive themselves to be, oppressed. What is incalculably more important, the vital principle of our system—that principle which requires acquiescence in the will of the majority—would be secure from the discredit and danger to which it is exposed by the acts of majorities, founded, not on identity of conviction, but on combinations of small minorities, entered into for the purpose of mutual assistance in measures which, resting solely on their own merits, could never be carried.

I am well aware, that this is a subject of so much delicacy, on account of the extended interests it involves, as to require that it should be touched with the utmost caution; and that, while an abandonment of the policy in which it originated—a policy coeval with our Government, and pursued through successive administrations, is neither to be expected or desired, the people have a right to demand, and have demanded, that it be so modified as to correct abuses and obviate injustice.

That our deliberations on this interesting subject should be uninfluenced by those partizan conflicts that are incident to free institutions, is the fervent wish of my heart. To make this great question, which unhappily so much divides and excites the public mind, subservient to the short-sighted views of faction, must destroy all hope of settling it satisfactorily to the great body of the people, and for the general interest. I cannot, therefore, on taking leave of the subject, too earnestly for my own feelings or the common good, warn you against the blighting consequences of such a course.

According to the estimates at the Treasury Department, the receipts in the treasury during the present year will amount to twenty-four millions one hundred and sixty-one thousand and eighteen dollars, which will exceed by about three hundred thousand dollars the estimate presented in the last annual report of the Secretary of the Treasury. The total expenditure during the year, exclusive of public debt, is estimated at thirteen millions seven hundred and forty-two thousand three hundred and eleven dollars; and the payment on account of pub-

lic debt for the same period will have been eleven millions three hundred and fifty-four thousand six hundred and thirty dollars; leaving a balance in the treasury, on the first of January, 1831, of four millions eight hundred and nineteen thousand seven hundred and eighty-one dollars.

In connexion with the condition of our finances, it affords me pleasure to remark that judicious and efficient arrangements have been made by the Treasury Department for securing the pecuniary responsibility of the public officers, and the more punctual payment of the public dues. The revenue cutter service has been organized, and placed on a good footing; and, aided by an increase of inspectors at exposed points, and the regulations adopted under the act of May, 1830, for the inspection and appraisal of merchandise, have produced much improvement in the execution of the laws, and more security against the commission of frauds upon the revenue. Abuses in the allowances for fishing bounties have also been corrected, and a material saving in that branch of the service, thereby effected. In addition to these improvements, the system of expenditure for sick seamen belonging to the merchant service has been revised; and, by being rendered uniform and economical, the benefits of the fund applicable to this object have been usefully extended.

The prosperity of our country is also further evinced by the increased revenue arising from the sale of public lands, as will appear from the report of the Commissioner of the General Land Office, and the documents accompanying it, which are herewith transmitted. I beg leave to draw your attention to this report, and to the propriety of making early appropriations for the objects which it specifies.

Your attention is again invited to the subjects connected with that portion of the public interests entrusted to the War Department. Some of them were referred to in my former message; and they are presented in detail in the report of the Secretary of War, herewith submitted. I refer you, also to the report of that officer for a knowledge of the state of the Army, fortifications, arsenals, and Indian affairs; all of which, it will be perceived, have been guarded with zealous attention and care. It is worth of your consideration whether the armaments necessary for the fortifications on our maritime frontier, which are now, or shortly will be, completed, should not be in readiness sooner than the customary appropriations will enable the Department to provide them. This precaution seems to be due to the general system of fortification which has been sanctioned by Congress, and is recommended by that maxim of wisdom which tells us in peace to prepare for war.

I refer you to the report of the Secretary of the Navy for a highly satisfactory account of the manner in which the concerns of that Department have been conducted during the present year. Our position in relation to the most powerful nations of the earth, and the present condition of Europe, admonish us to cherish this arm of our national defence with peculiar care. Separated by wide seas from all those Governments whose power we might have reason to dread, we have nothing to apprehend from attempts at conquest. It is chiefly attacks upon our commerce, and harassing incursions upon our coast, against which we have to guard. A naval force adequate to the protection of our commerce, always afloat, with an accumulation of the means to give it a rapid extension in case of need, furnishes the power by which all such aggressions may be prevented or repelled. The attention of the Government has, therefore, been recently directed more to preserving the public vessels already built, and providing materials to be placed in dépôt for future use, than to increasing their number. With the aid of Congress, in a few years, the Government will be prepared, in case of

emergency, to put afloat a powerful Navy of new ships almost as soon as old ones could be repaired.

The modifications in this part of the service suggested in my last annual message, which are noticed more in detail in the report of the Secretary of the Navy, are again recommended to your serious attention.

The report of the Postmaster General, in like manner, exhibits a satisfactory view of the important branch of the Government under his charge. In addition to the benefits already secured by the operations of the Post-office Department, considerable improvements, within the present year, have been made, by an increase in the accommodation afforded by stage coaches, and in the frequency and celerity of the mail between some of the most important points of the Union.

Under the late contracts, improvements have been provided for the southern section of the country, and, at the same time, an annual saving made of upwards of seventy-two thousand dollars. Notwithstanding the excess of expenditure beyond the current receipts for a few years past, necessarily incurred in the fulfilment of existing contracts, and in the additional expenses, between the periods of contracting, to meet the demands created by the rapid growth and extension of our flourishing country, yet the satisfactory assurance is given, that the future revenue of the Department will be sufficient to meet its extensive engagements. The system recently introduced, that subjects its receipts and disbursements to strict regulation, has entirely fulfilled its design. It gives full assurance of the punctual transmission, as well as the security, of the funds of the Department. The efficiency and industry of its officers, and the ability and energy of contractors, justify an increased confidence in its continued prosperity.

The attention of Congress was called, on a former occasion, to the necessity of such a modification of the office of Attorney General of the United States as would render it more adequate to the wants of the public service. This resulted in the establishment of the office of Solicitor of the Treasury; and the earliest measures were taken to give effect to the provisions of the law which authorized the appointment of that officer, and defined his duties. But it is not believed that this provision, however useful in itself, is calculated to supersede the necessity of extending the duties and powers of the Attorney General's office. On the contrary, I am convinced that the public interest would be greatly promoted by giving to that officer the general superintendence of the various law agents of the Government, and of all law proceedings, whether civil or criminal, in which the United States may be interested; allowing to him, at the same time, such a compensation as would enable him to devote his undivided attention to the public business. I think such a provision is alike due to the public and to the officer.

Occasions of reference from the different Executive Departments to the Attorney General are of frequent occurrence; and the prompt decision of the questions so referred, tends much to facilitate the despatch of business in those Departments. The report of the Secretary of the Treasury, hereto appended, shows also a branch of the public service not specifically entrusted to any officer, which might be advantageously committed to the Attorney General.

But, independently of those considerations this office is now one of daily duty. It was originally organized, and its compensation fixed, with a view to occasional service, leaving to the incumbent time for the exercise of his profession in private practice. The state of things which warranted such an organization no longer exists. The frequent claims upon the services of this officer would render his absence from the Seat of Government, in professional attendance upon the courts, injurious to the public service; and the interests of the Government

could not fail to be promoted by charging him with the general superintendence of all its legal concerns.

Under a strong conviction of the justness of these suggestions, I recommend it to Congress to make the necessary provisions for giving effect to them, and to place the Attorney General, in regard to compensation, on the same footing with the heads of the several Executive Departments. To this officer might also be intrusted a cognizance of the cases of insolvency in public debtors, especially if the views which I submitted on this subject last year should meet the approbation of Congress—to which I again solicit your attention.

Your attention is respectfully invited to the situation of the District of Columbia. Placed, by the Constitution, under the exclusive jurisdiction and control of Congress, this District is certainly entitled to a much greater share of its consideration than it has yet received. There is a want of uniformity in its laws, particularly in those of a penal character, which increases the expense of their administration, and subject the people to all the inconveniences which result from the operation of different codes in so small a territory. On different sides of the Potomac, the same offence is punishable in unequal degrees; and the peculiarities of many of the early laws of Maryland and Virginia remain in force, notwithstanding their repugnance, in some cases, to the improvements which have superseded them in those States.

Besides a remedy for these evils, which is loudly called for, it is respectfully submitted whether a provision, authorizing the election of a Delegate, to represent the wants of the citizens of this District on the floor of Congress, is not due to them, and to the character of our Government. No portion of our citizens should be without a practical enjoyment of the principles of freedom; and there is none more important than that which cultivates a proper relation between the governors and the governed. Imperfect as this must be in this case, yet it is believed that it would be greatly improved by a representation in Congress, with the same privileges that are allowed to that of the other Territories of the United States.

The penitentiary is ready for the reception of convicts, and only awaits the necessary legislation to put it into operation; as one object of which I beg leave to recal to your attention the propriety of providing suitable compensation for the officers charged with its inspection.

The importance of the principles involved in the inquiry, whether it will be proper to recharter the Bank of the United States, requires that I should again call the attention of Congress to the subject. Nothing has occurred to lessen, in any degree, the dangers which many of our citizens apprehend from that institution, as at present organized. In the spirit of improvement and compromise which distinguishes our country and its institutions, it becomes us to inquire whether it be not possible to secure the advantages afforded by the present Bank through the agency of a Bank of the United States so modified in its principles and structure as to obviate constitutional and other objections.

It is thought practicable to organize such a bank, with the necessary officers, as a branch of the Treasury Department, based on the public and individual deposits, without power to make loans or purchase property, which shall remit the funds of the Government, and the expenses of which may be paid, if thought advisable, by allowing its officers to sell bills of exchange to private individuals at a moderate premium. Not being a corporate body, having no stockholders, debtors, or property, and but few officers, it would not be obnoxious to the constitutional objections which are urged against the present bank; and having no means to operate on the hopes, fears, or interests of large masses of the community, it would be shorn of the influence which makes that bank formidable. The States would be strengthened by hav-

ing in their hands the means of furnishing the local paper currency through their own banks; while the Bank of the United States, though issuing no paper, would check the issues of the State banks, by taking their notes in deposit, and for exchange, only so long as they continue to be redeemed with specie. In times of public emergency, the capacities of such an institution might be enlarged by legislative provisions.

These suggestions are made, not so much as a recommendation, as with a view of calling the attention of Congress to the possible modifications of a system which cannot continue to exist in its present form without occasional collisions with the local authorities, and perpetual apprehensions and discontent on the part of the States and the people.

In conclusion, fellow-citizens, allow me to invoke, in behalf of your deliberations, that spirit of conciliation and disinterestedness which is the gift of patriotism. Under an overruling and merciful Providence, the agency of this spirit has thus far been signalized in the prosperity and glory of our beloved country. May its influence be eternal.

ANDREW JACKSON.

#### REPORT OF THE SECRETARY OF WAR.

WAR DEPARTMENT, DEC. 1, 1830.

To the President of the United States.

SIR: I have the honor to make known to you the operations of this Department during the present year, and to offer such suggestions as appear to me necessary to be presented. The Army, at the different positions it has occupied along our western and southern frontiers, has been engaged in preserving quiet in those quarters, and has fully succeeded. Fears were entertained of a serious rupture with some of our northwestern tribes of Indians; but the presence of a military force, and the exercise of a proper discretion on the part of those to whom the trust of reconciling them was confided, has had the effect to prevent it, and peace has been the consequence. Similar apprehensions have recently been entertained of the Indians who reside on our southwestern boundary, and precautionary steps have been taken to prevent any acts of hostility. The vigilance, intelligence, and discretion, of our officers, induce a belief that, by their exertions, these distant tribes can be retained at peace, with each other. Occasional interruptions have arisen from marauding parties, who range through the forest, and, at points distant from our posts, commit depredations: these acts, in turn, produce retaliation. It is important to prohibit these aggressions, if possible, though no other plan can be suggested that what has already, heretofore, been presented, viz: an authority to employ a detachment of mounted troops. These, ranging through the country at irregular periods, would do much more towards preserving peace with our Indian tribes, and quiet along our borders, than could be effected through any augmentation of our posts.

I regret to say that desertions from the Army are not of less frequent occurrence than heretofore. The number, for the present year, will exceed one thousand. Various efforts have been made, and many theories suggested, to arrest an evil so injurious to the operations and character of an Army. None have succeeded! The benevolent intention of the act of Congress of last winter, which took from the offence the penalty of death, and in obedience to the spirit of which all past offences of the kind were by you directed to be forgiven, has had no restraining, no salutary effect. I am not an advocate for the severity of penalties. The hope of reward, more frequently than the fear of punishment, operates beneficially upon mankind. A resort to both might be serviceable. While

penalties corresponding with the nature of the offence might be imposed upon delinquents, the faithful and good soldier should be cheered with the expectation of reward. To this end, an authority to make some reasonable compensation to those who obtain an honorable discharge should be granted. In conformity to this opinion, I would take occasion to suggest, that, while some adequate penalty be imposed for so gross a violation of duty as that of abandoning a service voluntarily assumed, it may also be provided that the soldier who serves faithfully, and is honorably discharged, shall receive, at the termination of his enlistment, one hundred and twenty dollars. Let him receive, instead of his present pay, four dollars per month, retaining the residue, payable at the end of service. The difference in expense thus created to the Government, for the five years of enlistment, would be but sixty dollars; which increase, it is hoped and believed, will be more than compensated for by a saving in the expenses which are incurred under the present system of restraining desertion. The amount retained should be forfeited if, at any time, the soldier desert the service. It might operate as a strong incentive to good conduct, and would serve as a fund at the close of his engagement, by which to establish him in some advantageous pursuit. By the present mode, he retires from the Army dependent and poor as he entered; and often, instead of returning for a time to his family, enters the Army contrary to his inclination, induced only by his poverty and wants. Dissatisfaction takes place, and desertion follows.

Repeated efforts have been made to arrest this growing evil; and they should be continued, so long as there is a hope of remedy. The loss to the service is not so material. The great fear is, that, in peace, the practice may become so frequent and familiar as in war to lose that odium which should attach to so aggravated an offence.

Recently, by an order from the War Department, the whiskey part of the ration has been taken away, with a view to ascertain how far a theory frequently introduced might be practically productive of benefit. Time has not been afforded to test the experiment; but little confidence is reposed in the attempt. If the plan suggested—the giving enlarged compensation to the non-commissioned officers—which every soldier may aspire to be—shall fail to produce a remedy, I know not what other can be attempted with any reasonable prospect of success. In peace the soldier is not stimulated by that buoyancy which in war induces him to aspire to promotion through gallantry and good conduct. To be a non-commissioned officer is all that he can hope for or expect. To place this class of officers on a more advantageous and respectable footing, for the purpose of exciting a spirit of emulation amongst the soldiers, might prove highly serviceable. The subject, being one of importance, is at least worthy of consideration and experiment.

Connected with the Army is the Military Academy at West Point. The beneficial effects which have been produced to the country already, and the more enlarged ones which are in prospect from this valuable institution, render it matter of importance that it should be maintained upon its present liberal plan and principles. The education of two hundred and fifty young gentlemen, selected from every State in the Union, cannot fail to carry with it general advantages and benefits correspondent to the demands it produces on the Treasury. But, apart from this, the education obtained there being of a military character, the benefits diffused through every section of our country cannot but prove highly salutary when it shall again be involved in war. The information which is acquired there is carried to the several States: these young men become officers of militia; and, in time, through the means thus afforded, something approaching

to uniformity in the discipline of our militia may be expected. The able report of the Board of Examiners at the last commencement, which accompanies this report, will present in detail the progress and advantages of the institution.

By the act of 1818, the President of the United States is authorized to confer upon the graduates of this academy the appointment of brevet lieutenants. Already there are 87 supernumerary officers thus created, who cannot now be provided for in the line of the Army. In June next there will probably be 33 more added, which will produce an excess of 14 over the number authorized. The law prohibits brevet appointments of a greater number than 106—one for each company; of course, upon a reasonable calculation, but few, if any, of the cadets, after June, 1831, will be entitled to a brevet commission. I would respectfully suggest whether some rule different from the present be not necessary to restrict for the future lieutenant appointments, retaining only so many as might supply the probable vacancies which occur within the year. The number of promotions to the Army from this corps, for the last five years, has averaged about 22 annually; while the number of graduates for the same period has been at an average of 40. This excess, which is annually increasing, has placed 87 in waiting until vacancies shall take place, and shows that, in the next year probably, and in the succeeding one certainly, there will be an excess beyond what the existing law authorizes to be commissioned. There will then be 106 supernumerary brevet second lieutenants appurtenant to the Army, at an annual expense to the Government of \$80,000.

In the Engineer Department, important operations, as regards the internal improvement of the country, have been in successful progress. The advantages to our commerce from the improvements which have been made in the navigation of the Mississippi and Ohio rivers, have already been sensibly felt; and great good to the community at large is to be anticipated from further efforts. The experiments begun, and, in some respects, completed, show, that, at an inconsiderable annual expense, the Ohio river may be cleared of its bars and shoals, so as to afford a convenient and safe navigation at those seasons of the year when, heretofore, it has been considered impracticable.

This subject well merits the attention of the Government. These rivers pass through an immense and fertile region of our country, the products of which contribute essentially to advance our commercial interest. An inconsiderable expenditure from the public Treasury will have the effect to give security to a commerce which at present is carried on at much hazard, and, by diminishing the insurance now required, and preventing losses, speedily reimburse to the community the cost which has been incurred, and the expense which may be required. At present the imports to the West are mainly along these rivers, and the export trade almost entirely. Usually, for six months in the year, one of these (the Ohio) ceases to be useful, because of the numerous obstructions, and consequent hazards, which are presented at those times when the waters are materially reduced. The inconvenience and risk thus felt are susceptible of such easy remedy, and at so small an expense, that it becomes matter of surprise that improvements so important and valuable to a large community should have been so long overlooked or neglected. The necessity of improving the navigation of these rivers for commercial purposes, all admit; of the practicability of effecting it, none can doubt. The experiment lately made, through a most difficult obstruction at a place called the Grand Chain, conclusively tests the feasibility of improving other places, and shows that the expense will be inconsiderable. As it regards this branch of the subject, however, it appears to me that the importance and value of the thing to be



done, is of infinitely greater consequence than any apprehension of charge which it may occasion to the Treasury.

The breakwater situated at the mouth of the Delaware river is another valuable improvement, which, within the last year, has been rapidly progressing. The work has already risen above the water, and furnished evidence of its importance to our commerce. During the violent gale of last September, several vessels which lay under the protection of this work were preserved. The force of the sea being broken by its opposition, they were enabled to keep at their moorings, and to ride out the gale in safety. Fifteen other vessels in view, not possessing the advantages of this position, were driven on shore, and lost, or gotten off at much expense. A few years will complete this valuable work. The attention it has received since it was placed in charge of the Quartermaster's Department by your direction, and the advantages already derived from it, give proof of the propriety of its completion, and of the numerous benefits it must afford to commerce. At this heretofore hazardous part of our coast navigation, a security will be afforded which, in a few years, may occasion a saving of property which will amply compensate for the cost incurred in its construction.

The Ordnance Department is progressing as rapidly as the means afforded will permit, in arming the militia of the States, and in preparing the necessary guns and carriages for garnishing the different fortresses of the country. It is worthy of consideration whether the appropriation applicable to this service should not be increased, so as to provide a suitable armament by the time the different fortifications along the coast shall be completed. For the forts which are finished, a million of dollars will be necessary; but besides these, others are in progress, and will shortly be completed. With the annual appropriation of \$100,000 towards this purpose, it will require ten years to accomplish the object for those which are in readiness. Should we be blessed with peace, no injury will arise; but should war take place, the effects upon our country would be of a serious and prejudicial character.

In all the disbursing branches connected with the War Department, I am happy to say that punctuality and fidelity have strictly, and almost without exception, been regarded during the year.

A new era in the history of this country has, within a few years, arisen in relation to Indian affairs. Under the act of 1802, and the practices of the Government resulting therefrom, principles have been introduced, the correctness of which deserves serious consideration. By this act it is prohibited to any one to settle upon Indian lands, or to enter their territory; and, for its execution, the President is authorized and directed to employ the "military force" of the country.

It is worthy of reflection how far this act (as circumstances exist) is to be considered within the pale of the Constitution, and obligatory upon the authorities of the Government. Before the States were members of this Union, they were sovereign. The United States Government can legitimately exercise those rights only with which the States parted under their general compact. To regulate their internal municipal authority is a privilege which has not been surrendered: Amongst those rights is the indisputable one of controlling their citizens and governing them after their own mode, with this exception, that a republican form of Government is to be secured to each. The States, being independent and sovereign within their own limits, can admit no check upon their sovereignty, whether, in its exercise, it affects one citizen or another—the white or the red man. By courtesy, the laws have been withheld from an interference with the Indians within a State; and that which heretofore was mere courtesy is now insisted upon as a matter of

paramount constitutional right. Surely this cannot be correct according to our notions and system of Government; and, if wrong, the act of 1802, from the moment the laws are extended by a State over Indian territory, must cease to be operative. Reciprocity is always fair and just; and hence the law which would make it penal for a white man to tread unlicensed upon soil held through Indian occupancy, should equally restrain the Indian from entering upon the domain of the white man. So far as existing treaties operate, the United States possess the power to concede this or any other privilege, because treaties, whether well or ill made, are the supreme law of the land; but they should be such as are permitted to be entered into by the Constitution, and which do not affect the rights of a State beyond what her consent in becoming a member of the Union has sanctioned and authorized. Every thing beyond this is usurpation.

Under the authority confided by you, during last summer, I visited some of the Indian tribes, with a highly valuable auxiliary, General John Coffee, of Alabama, and made known to them their situation. With the Choctaws and Chickasaws, (the only tribes with whom we negotiated,) treaties were concluded. From all appearances, they were well satisfied with their own decision, and the course which we pursued towards them. If any different feeling has since been incited, it is the work of persons who have sought, through the channels of their ignorance, to persuade them to the belief that great injustice has been practised. I undertake to assure you, that, in all we did, the utmost fairness and candor were practised. We sought, through persuasion only, to satisfy them that their situation called loudly for serious reflection. Pending the negotiation, no secret meetings were had, no bribes were offered, nor promises made. Every argument adduced, or suggestion offered, was in open council, and in view of those whose rights were to be affected. Of this, abundant evidence exists, whatever may be said to the contrary. There was no motive to impose upon or to deceive them. Our instructions forbade us to do so, and our inclination, beside, was an ample restraint. The treaties concluded are ready for submission; and how far any practised injustice or want of liberality can be imputed, will be fairly judged of when their tenor and condition shall be disclosed. If a liberality ample and generous has not been regarded, our wishes have failed, and our judgments been mistaken.

During this period I witnessed much of Indian character, their progress, refinement, and march towards civilization, and can well say, that, in conducting the negotiation every thing was done to retain them in those pursuits which should tend to their advancement, and to which their situation could reasonably lay claim. Those who so zealously have espoused their cause, and who affect seriously to deplore their condition, are acting upon false premises, or are moved by mistaken considerations of kindness. But, as mankind are found to differ even upon essential matters of faith, and their ultimate results, I can well imagine that, in reference to such a subject as the present, honest differences of opinion may be expected, and will arise. Yet, before a desire be adopted, earnestly, to retain these people at their present homes, we should be careful not to receive mere impressions for facts, but rather to hear the suggestions of truth and reason. We should look to the red men as they are, and not as oftentimes they are represented to be; to their inaptitude to live under a well regulated system of law, and to the danger and hazard of the experiment. A few of them are well informed men, and capable of enjoying refined society. These are the mixed Indian—the half breed, as they are usually termed. Scarcely any of the others speak our language, or are acquainted with the principles of our Government. Little hope should be entertained, even by those most sanguine on the subject, that

any material advances in civilization can be made with the present generation—those, I mean, who are now at maturity in life. Care and attention towards the rising generation may tend greatly to improve, and in time to meliorate, their present condition. To turn them to industry is of first importance. Labor is never an acceptable pursuit to Indians. In their unimproved state, a fondness for war and the chase, and oratory at their councils, constitute their leading traits, because these afford the highest distinction. When, through the influence of culture and education, their taste upon these subjects shall be changed, and the character of an industrious agriculturist be held in higher estimation than dexterity of pursuit in the chase, then may they be expected to resort to industry, and give attention to the duties of agriculture. Indisposition to manual labor, so peculiarly the characteristic of an Indian, causes him to select the poorest grounds, because of the ease with which the timber is felled and cleared away. The exceptions which exist to this are principally amongst those of mixed Indian blood, whose habits have been improved, and whose minds have been cultivated.

There are three divisions in the Choctaw nation, each of which is governed by a chief, who, within his limits, acts independently of the others. In his government he is aided by minor and subordinate chiefs, called captains, each of whom acts within his particular district. The people are subordinate to the captains, the captains to the chiefs. One of these divisions composes what is called the Christian District; the chief of which is a man of good mind, with a common English education, and is religious. His people, too, are seemingly pious. Each night, pending the negotiation, until a late hour, they were at their exercises, singing and preaching. From every information, this Christian party, as it is termed, are not accurately and correctly informed as to the principles and faith upon which they profess to act. A future state of rewards and punishments for virtues or for crimes is fashioned by their standard of savage life, and its enjoyments; and, in their imagination, is made to conform to what they conceive to be essential to constitute happiness or misery here. Judging from their devotional conduct, they are, to all appearances, a religious people. Certainly there are some perceptible and beneficial changes amongst them. They have become mostly an agricultural people. The practice of perforating the nose and ears for the purpose of ornamenting them is rapidly disappearing, and considered a rude custom. Vermillion paint, to ornament and to decorate the face, is, in a great measure, given up. A credulity in supernatural agency, in witches, and in witchcraft, is fast yielding; and the use of ardent spirits, particularly in one of the districts, is in a great measure abandoned. A reasonable hope may be entertained that these people may, in time, prove that the zeal and efforts of the Government to protect and civilize them are not improperly bestowed.

In concluding a treaty with these people, candor and fairness were the only means resorted to by the commissioners. They were given to understand distinctly, that, in coming to visit them at their solicitation, and at their homes, no design was entertained beyond communicating to them a knowledge of their true condition, and submitting to their judgment the course of policy by them to be pursued. We told them the opinion entertained by the Government as to the authority of Mississippi to extend over them her laws; and that the United States possessed not the power to prevent it. The interviews had with them were in open council, where were present the chiefs and warriors, and some of our own citizens. Arguments addressed to their judgments were the means employed. No threat was used; no intimidation attempted. Under these circumstances, a treaty was concluded and signed, more than five

thousand Indians being in attendance at the time. Amongst them was great apparent unanimity. Some did object and were dissatisfied, but not as it regarded the general policy of treating, but because they believed themselves entitled to obtain, and were solicitous to procure large reservations. The number thus influenced was small. Since that time, active efforts have been made in the nation to induce dissatisfaction amongst the Indians, and to persuade them that they had been greatly deceived and imposed upon.

An old chief (Mushulatubbee,) who was favorable to the treaty, by a few of the discontented of his district, has been recently deposed, and the name of another sent to this office to receive recognition. The design is probably to show that the people are displeased because he signed the treaty. The answer returned to their application was, that, while the Government meant not to interfere with their mode or manner of self-government, it could not recognize what had been done by a few; yet, when a chief should be chosen by a majority of the division, and the fact so certified by their General Council, he would be regarded as properly chosen, and be considered as such. An examination of this treaty will clearly show, I think, that justice and liberality have been regarded. The great majority of the nation were satisfied when we left them; and, from information since received, yet continue to be satisfied. Their anxious desire is, to get to a country under the protection of the United States, where they can be free from any liability to State laws, and be able to dwell in peace under their own customs.

The Commissioners appointed to further the execution of the treaty of Butte des Morts have discharged the trust confided to them, and have made their report. The misunderstanding between the New York and Green Bay Indians has been examined and adjusted; the report to be confirmed, only requires your approval, agreeably to the second article of that treaty.

Very respectfully,

JOHN H. EATON.

## REPORT OF THE SECRETARY OF THE NAVY.

NAVY DEPARTMENT, Dec. 6, 1830.

The following report of the transactions of the Navy of the United States during the present year, with a view of the several subjects connected with its interests, is respectfully laid before the President of the United States.

The state of the Navy, since the communication made to you in December last, has been, generally, favorable to its active exertions in the important pursuits in which it has been engaged. No distressing casualty or marked calamity has assailed it since the loss of the sloop of war *Hornet*; information of which lamented event was received prior to the adjournment of the last session of Congress.

The active force employed within the year has not been essentially varied from that kept in service for several years past. This consists of five frigates, ten sloops of war, and four schooners: of these, the most efficient squadron, composed of two frigates and four sloops, has been required to cruise in the Mediterranean sea, where, from the large interest engaged in mercantile adventures to the several States on its coasts, its presence was deemed of most importance. This has continued under the command of Com. Biddle. Two of the vessels composing it have been relieved, their terms of service having expired, and their places supplied by the sloops of war *Concord* and *Boston*; the former being first ordered to convey the United States' Minister to Russia, and the latter to take the United States' Consul General to the Barbary Powers.

The state of these vessels has been represented to be, in point of order and preparation for service, every way worthy of approbation, and the discipline exact, without rigor—promising all required efficiency in its force. Under the command of this able and vigilant officer, all the necessary protection has been given to the trade in that quarter, no case having come to the knowledge of the Department of injuries from piratical attacks; and, with the several States and sovereignties bordering on its coasts, the best understanding has been preserved. This squadron continues to rendezvous at the port of Mahon, in the Island of Minorca, a privilege which has been conceded by the Government of Spain, affording great conveniences to the United States' squadrons, especially at seasons when their safety would be endangered by remaining at sea. Here they enjoy a respite from the labors and the dangers of the ocean, in a climate mild and favorable to the restoration of the health of their crews, after long and laborious service at sea.

Other changes in the vessels employed in this sea are contemplated during the next year, but the force is not proposed to be diminished; nor, in the present agitated condition of the contiguous States, could this be done, without subjecting the commercial enterprises of the country to the casualties attending a state of warfare, should such be the unhappy result of the present hostile indications in that quarter.

The squadron appointed to cruise on the coasts of Brazil and Buenos Ayres, and on the Pacific Ocean has been steadily engaged in guarding the United States' mercantile interests on these coasts. This service has been performed with fidelity and success; and the flag of the Union now gives full security to the merchandise it is authorized to introduce, and exchange with the respective countries to which it is carried.

The cessation of hostilities between the States of Chili and Peru and the mother country, and between Brazil and Buenos Ayres, has greatly favored the advances of trade, and diminished the hazards of mercantile adventure with every part of the South American continent. But the unstable and inefficient Governments of a part of these States forbid the idea that this can be long enjoyed, without embarrassments and vexatious interruptions, unless it shall be sustained by the presence of an active protecting force. It cannot, consequently, be believed to be consistent with good policy to lessen the efficiency of this force.

Several of the vessels composing these two squadrons will be relieved in the course of the next year, preparation for that purpose being in active progress. It is also contemplated to make some changes in the description of force to be employed on the Atlantic coast of South America, adapting it better for the harbors it is forced to look to for security against the tempestuous weather so often experienced on these coasts.

In a former communication made to you, it was noticed that the sloop of war Vincennes, commanded by Captain Finch, which had composed one of the squadron in the Pacific ocean, had been directed, after the expiration of the term limited for the cruise on the coasts of Chili and Peru, to touch at the Marquesas Society, and Sandwich Islands; and, after spending the necessary time in looking to the United States' commercial concerns in that quarter, to take Canton, &c., in the way, and thence, by the Cape of Good Hope, pursue the usual route to the United States.

This order has been faithfully executed: the ship has returned in good condition, with its crew well disciplined, and in excellent health.

The particulars of this voyage are given in the Report of Captain Finch. These have a claim to the attention of the public, from the information afforded on many points relating to the character and habits of a people

just emerging from a state of simplicity and ignorance, and, from their peculiar locality, necessarily controlling the comforts of the large number of the United States' citizens who annually visit them.

The great amount of tonnage and capital employed in whale fisheries, in the adjoining seas, makes its convenient prosecution a matter of no inconsiderable concern to the nation.

The necessity, also, for repose after the long voyages required by this trade, and the want of supplies for health and convenience, and repairs of the vessels, render these islands places of general rendezvous; and it is consequently of great importance, that the most friendly intercourse be maintained with the inhabitants. Captain Finch, by his judicious and conciliatory deportment, has probably secured a long continuance of kindly treatment to his countrymen from these people, and has added greatly to the prospects of a successful termination of their enterprises.

Some extracts from this report are herewith transmitted, marked A.

The squadron which has been maintained in the West Indies and Gulf of Mexico consists, at present, of four sloops of war and three schooners, under the command of Commodore Elliott. Several changes have been made in the vessels employed on this station, in consequence of the expiration of the terms of service of the crews, or the want of repairs of the vessels. No causes are supposed to exist making it necessary to add to this force; nor can it be safely diminished, though the energy and activity with which it has guarded the United States' trade, may be said, for the present, effectually to have suppressed piratical aggression.

The great facilities afforded by the inlets and harbors of the islands in the Mexican gulf for the resort and concealment of the vessels engaged in the commission of piracies; the class of population with which these islands abound, composed of refugees and outlaws, escaped from the punishment due for crimes committed in other countries, give advantages for piratical enterprises scarcely known in any other quarter of the globe. Nothing short of the exertion of positive and continued force can be expected to keep these marauders in check, and give the desired security to trade.

The invasion, which took place during the last year, of the territories of the Mexican States, by an armament from the island of Cuba, having given ground for apprehension that the United States' trade to these States might suffer from the pretexts afforded by this state of conflict between the two countries, an act was passed at the last session of Congress authorizing the employment of some additional force upon that station. In conformity to the provisions of that act, the frigate Brandywine, under the command of Captain Ballard, was equipped and despatched for that coast, and continued for several months to cruise in its vicinity. Whatever danger might have threatened the trade in that quarter, has been effectually parried by the means taken for its protection; and this ship, after returning to the United States for necessary refitments, has since sailed to join the Mediterranean squadron and relieve the frigate Java.

It is believed that great advantages might be derived from changing, to a certain extent, the description of naval force employed in the West Indies, especially for the suppression of piracy.

The proposed change would consist of the substitution of three schooners in lieu of one of the sloops of war now employed in that service.

Vessels of this force would be fully able to cope with and capture any piratical cruiser which might be expected to be encountered on this station; and they would possess the greater advantage of multiplying, by the increased number of the squadron, the chances of discov-

ering the enemy, while their structure and inferior size would diminish the risk of being known in their approaches. Their lighter draft of water would favor the pursuit into the obscure recesses and haunts of these cruisers, and give the important facility of entering many of the harbors on the Mexican gulf, for security against the frequent hurricanes prevailing in tropical climates.

It is respectfully recommended that an appropriation be made for building the proposed number and description of vessels.

The health of the officers and crew of the United States' vessels of war has been generally good, and uninterrupted by the attacks of the epidemic and malignant fevers which are so readily engendered in tropical climates, and which exert such fatal influence on the constitutions of persons not familiarised to a residence in them. This may be ascribed, in some degree, to the improved system of ventilation, and the great neatness observed in the economy of vessels of war, and the adaptation of the diet and dress of the crews to the temperature of the coasts and countries where their duties are to be performed. The modern discoveries in chemical science have also been resorted to, to preserve the mariner from the attacks of these fatal maladies. Several communications have been received from the Surgical Department of the Navy, by whom experiments on the chloride of lime were ordered to be made, giving the results of their observations on its powers in preventing the generation of such diseases.

From these a few extracts have been taken, and are herewith transmitted, marked B.

These furnish subjects for congratulation to the friends of the improvement of the condition of the seaman's life, and indicate that the period is not remote when a service in the climates of the torrid zone will no longer be the terror of nautical men, but will be performed with as fair a prospect of exemption from disease as is now experienced in the temperate latitudes.

It is to be regretted that an exception to this general healthfulness of the Navy has been experienced in one of the vessels of the West India squadron.

From the communications of Commodore Elliott, it appears that the yellow fever made its appearance on board the sloop of war Peacock some time in the month of June last, and that it continued to harass the crew of that vessel after its return to Pensacola, in September; nor were its attacks intermitted until it had deprived the service of four valuable officers, and of several seamen.

It is worthy of remark, that, on board this vessel, the powerful preventive agent above-mentioned was not used, the surgeon relying, for the preservation of the health of the crew, on the superior cleanliness and well ventilated state of the vessel.

The Commissioners of the Navy Board, interpreting the act making an appropriation for the repairs of vessels in ordinary, and the wear and tear of vessels in commission, as admitting a greater latitude in its application to naval purposes, than, it is believed, was contemplated by the framers of the law, or was admissible by a fair construction of its terms, have caused to be built, out of that fund, a new sloop of war, in the place of the "John Adams," which had been found defective in the model, and otherwise unfit for repair.

This subject was referred to your consideration; and, in conformity to your decision, an order has been issued, requiring that, in future, the application of this fund shall be confined to the repairs of vessels in ordinary, and the wear and tear of vessels in commission; and that no vessels shall be built or rebuilt, unless authorized by a specific appropriation.

The condition of the Navy hospitals at most of the Navy yards in the United States is entirely deficient in the means of giving accommodation to the invalids of the

Navy who may be so unfortunate as to require it. At most of these places, the only provision made for their comfort during illness is some temporary shelter or old building, possessing no one of the requisites necessary for this purpose. The mariner who returns after long and faithful service in distant and uncongenial climates, finds no asylum prepared for his reception and recovery from diseases incident to such service, but is compelled to linger out his life in crowded and confined apartments, even less favorable to his restoration than the hold of the vessel from which he has been discharged.

The funds which have accrued from the monthly deductions of the pay of the Navy, and the several appropriations made by Congress, have been expended in the erection of two magnificent buildings, neither of which has been finished, and but one of them (at Norfolk, Va.) is applicable to, or designed for, the accommodation of the sick. For several years to come, there cannot be such an accumulation of Navy hospital capital as will enable the Commissioners of that fund to engage in the construction of other useful and permanent buildings for these objects.

At Pensacola, to the mild and salubrious climate of which the invalids of the Navy look with so much anxiety as a place of refuge and restoration from tropical pestilence, there is no building which will even protect the sufferers from the inclemencies of the weather, much less secure to them the conveniences and comforts which their situation demands.

At New York, and at Charlestown, Massachusetts, the necessary lands have been purchased with the Navy hospital funds for the erection of buildings for the use of the sick, and are in every respect favorably situated for affording the advantages which such establishments should possess.

These sites, in the vicinity of stations which are of so much importance to the Navy, from the number of efficient recruits enlisted at them for its service, remain unimproved, and unprovided with the buildings that are indispensable for the welfare of the invalid.

The laws passed at the last and preceding sessions of Congress for the gradual improvement of the Navy, the protection of the ships in ordinary, and for the preservation of the materials for naval purposes collected at the different Navy Yards, have received a due share of the attention of the Department.

The construction of the two dry-docks authorized under the first of these acts, at Boston and Norfolk, is progressing. The one at Boston is now in such a state of advancement as to induce the expectation that it may be brought into operation during the ensuing year, or early in 1832. The completion of these two laborious and expensive works will mark an important advance in the progress of our naval improvements. Repairing the ships of war of the larger classes, hitherto a work of so much labor, expense, and hazard, will by the conveniences afforded of these docks, be rendered comparatively easy, and may be executed, not only without risk and at far less cost than formerly, but in a manner better securing both the strength and durability of the ship. Paper marked C, annexed, contains information in detail on this subject.

Extensive houses have been prepared for the reception of materials provided under this act, and other buildings are in progress, which will give complete protection to the large stores now deposited at the different yards, and those which are to be delivered under existing contracts.

The necessary examinations required by this act, to determine the practicability and expediency of erecting a marine railway, at the Navy Yard, Pensacola, have been made by one of the United States' Engineers.

The views of this officer on this subject were laid be-

fore the Board of Navy Commissioners, and they have expressed the opinion that it is not expedient or proper, under the restrictions and conditions imposed by the act, to cause the construction of this desirable improvement to be attempted.

It is indispensable, however, that some facility should be afforded at this most convenient position for the repairs of the vessels of war engaged in the West India service. It is proposed that a wharf suitable for these purposes should be built, in place of the contemplated rail-way; and the necessary estimates for its erection are in readiness to be transmitted.

Further efforts have been made for the execution of this act as far as it relates to the preservation of the live oak growing on the coasts of the Atlantic and Gulf of Mexico.

By the fourth section of this act, the President is authorized to provide for the preservation of this timber; but it seems to have been intended that the power should be limited to that object. An interpretation of the law has, heretofore, been entertained, extending this power not only to the planting of the acorns, and the cultivation of plantations of young trees, but to the purchase from individuals of lands producing them. The paper accompanying this, marked D, shows the amount which has been expended on these plantations, and the sums which have been paid to individuals for the purchase of tracts of such land.

When it is considered that this timber is the natural product of the coast of the United States from the St. Mary's to the Sabine: that the greater part of this belongs to the United States, and is proposed to be retained with a view to preserving a supply of this important material for the Navy, it can scarcely be necessary for the present to engage in its artificial propagation or culture.

Under an impression that this system is neither expedient, nor in conformity to the intentions of the act, an order has been given to discontinue the works after the expiration of the present year.

But the preservation of this timber is an object of great importance, and should be prosecuted with an active and undeviating purpose.

In aid of those measures which have been heretofore resorted to, a vessel of such draft of water as was adapted to the navigation of the rivers and creeks of the coasts of Florida, and the Gulf of Mexico, has been selected and fitted out, and the command given to a vigilant and enterprising officer of the Navy, who has been required to visit, from time to time, as the season or circumstances would permit, every section of these coasts, and to use the utmost efforts to suppress further depredations upon the public interests. Surveyors and agents have also been directed to explore such parts of the coast as abound with the live oak, to designate the boundaries between private and public claims to land, and to mark out such tracts as they may think it most conducive to the public interest should be reserved for sale.

The accompanying report of the Fourth Auditor of the Treasury, marked E, shows the several sums which have been paid in carrying into effect the act of 3d March, 1819, and other acts, making appropriation for supporting and removing certain persons of color from the United States to the coast of Africa. It appears from this statement, that, under authority of these acts, 252 persons of this description have been removed to the settlement provided by the Colonization Society on the coast of Africa; and that there has been expended there for the sum of two hundred and sixty-four thousand seven hundred and ten dollars.

These several acts appear to have been passed in a spirit of justice and benevolence, to repair, as far as possible, the injuries inflicted by the citizens of the United States upon the defenceless persons who are the subjects

of the African slave trade; and the appropriations have been made with a liberality corresponding with the humane intentions of the framers of the laws.

The terms of these acts are sufficiently defined to be readily intelligible. It would seem that the authority given to the President was limited to the support of the negroes or persons of color during their stay in the United States, to their removal to the coast of Africa, and to the delivering of them to the care of an agent, &c. There is no power expressly vested in the Executive to provide, after such delivery, either for their support or protection. A liberal interpretation of the law might permit some allowance to be made for their maintenance after being landed, until they could find employment by which it might be earned. But this even would be authority from inference only, and should be cautiously exercised.

The practice has been to furnish these persons with provisions for a period of time, after being landed in Africa, varying from six months to one year; to provide them with houses, arms, and ammunition; to pay for the erection of fortifications; for the building of vessels for their use; and, in short, to render all the aids required for the founding and support of a colonial establishment.

This latitudinous interpretation of the law has resulted in the heavy expenditures detailed in the annexed report. Understanding the law in the limited acceptation represented above, it will in future be executed accordingly, and every effort made by the Department to confine the application of this fund within the pale of its provisions.

The term for which the crew of the frigate *Java* had been enlisted having nearly expired, that vessel has been ordered to return to the United States; in doing which, the commander has been required, in furtherance of the humane policy pursued by the Government, to touch at the settlement at Liberia, and to aid in enforcing the laws which have been enacted for the suppression of the slave trade.

In a communication heretofore made to you, the opinion was expressed, that the number of Navy Yards now established and in operation was greater than was required for the present wants of the naval service, and that a part of them were liable to the further objection of inconvenient location, both from their great distance from the ocean, and the deficiency in the depth of water for the larger classes of vessels.

This opinion has not been changed by any information since obtained, or by subsequent consideration of the subject.

Should it, however, become the necessary policy of the Government to make a great addition to its naval force, it is possible they may all be found useful, especially for the repairs of the smaller classes of vessels, and as depots for materials for the Navy, collected from the contiguous country.

Whatever course may be pursued in relation to these establishments, it is believed to be of the utmost importance to the security and general interests of the Navy that other positions be sought for, possessing greater advantages, and not liable to the objections which have been mentioned.

Few positions on our maritime frontier offer all the requisites for such purposes. But where these are found, it cannot be good policy to neglect the measures necessary to secure the possession and improvement of them.

The advantages believed to be possessed by the Dry Tortugas, in the Gulf of Mexico, for such an establishment, have heretofore been represented to Congress, and it is much to be desired that the opinions of the intelligent naval officers who have recommended this position should be tested by the more minute examinations of Engineers possessing the scientific knowledge necessary for its accurate determination.

Pensacola, as a place of depot and resort for vessels of



war requiring supplies or repairs, has much to recommend it, being contiguous to that part of the United States' coast which, it may be presumed, it will long be necessary should be guarded, particularly by that class of vessels which can safely enter its harbor, possessing a healthful climate, and the country in its neighborhood abounding with the best materials for the construction of vessels of war. But, as a place of general rendezvous for fleets or squadrons composed of ships of the largest classes, it cannot, in the present state of the entrance into its harbor, be regarded as offering the required facilities.

From a report made by the Department of War to the House of Representatives on the 5th February, 1830, it appears that a survey was made of this harbor during the preceding year, with a view of determining the practicability of deepening the channel of the entrance into this harbor, and thus adapting it to the great purposes of a naval depot for the United States' Navy.

The result of this survey was entirely favorable to the expectation of success from such an undertaking, and at an expense not estimated to exceed \$107,000. Whether the work, if it could be accomplished, would secure a permanent facility of entrance, uninfluenced by the operations of the tides and storms, can only be determined by the experiment. The object, however, is one of deep interest to those sections of the United States embraced within the valley of the Mississippi, as well as to those engaged in conveying their productions to market.

The communication made by the Commissioners of the Navy, dated 19th October, 1829, and addressed to you, with the report on naval affairs, at the commencement of the last session of Congress, afforded some views in relation to the fitness of the harbor of Newport, Rhode Island, or some place in the Narraganset Bay, for a naval depot and rendezvous for the United States' Navy.

From this it appears that the general advantages of this harbor or bay, for such purposes, are, in some respects, superior to any position East of the Chesapeake Bay. In addition to the information furnished by this document, it will be found, on reference to the surveys of Captains Evans and Perry, made by order of the Navy Department in 1815 and 1817, that the places referred to combine almost every advantage desirable for such an establishment; especially a facility of ingress and egress, with a sufficient depth of water for ships of the largest classes, and of a capacity to permit the largest fleets to ride within their waters, in security from storms, or obstructions from accumulations of ice; that its proximity to the ocean gives all the advantages of convenient attack or retreat from an enemy; and that, from the number and nature of the channels of entrance and departure, a fleet could not be blockaded within it without an application of force incomparably greater than the one intended to be shut up; and that it is believed to be defensible at an expense far less than that which has been incurred for similar objects. In addition to these important advantages, it is described by the officers above named as admitting of the entrance of vessels with the wind blowing from points of the compass during the prevalence of which it would be impossible to make a port in any harbor on the Eastern coast of the United States. This peculiar facility might, if the harbor was properly defended, result in the security of a fleet from the attacks of a superior enemy, and affords the strongest inducements to provide for its scientific survey, and the determination of all the points connected with the subject.

It is respectfully recommended that an appropriation be made, authorizing such survey by the proper Engineers, of the harbor of Newport, or other positions on Narraganset Bay, with a view to the selection of a site offering the greatest number of these advantages, and susceptible of defence at the least expense to the nation.

Some difference of opinion having taken place between the Commissioners of the Navy Yards, who were appointed to examine the sites at the Navy Yard in Brooklyn and Governor's Island, to determine which of the two positions was more eligible for a naval depot and building yard, no selection had been made for the buildings which were required for the several purposes of the establishment. This yard had consequently remained unimproved, to the great injury of the store of materials which had been collected there, as well as the general operations of building and repairing.

The subject having been referred to your consideration, and all the documents explaining the relative advantages of the two sites having been laid before you, it has, in conformity with your opinion, been ordered that the timber-houses shall be erected at the old establishment at Brooklyn, until further surveys can be made, affording such minute information as will justify a final disposition of the subject.

The papers herewith transmitted, marked F, furnish statements communicated by the Board of Navy Commissioners.

No. 1 shows the number of vessels of war in ordinary at the different stations, their present condition, and the progress which has been made in protecting them from the effects of the weather, and the expense which must be incurred for their thorough repair.

No. 2 shows that there are now on the stocks, well protected from the weather, and in a very advanced stage of preparation, five ships of the line and seven frigates. These can be readily finished and put in commission, whenever the exigencies of the service may demand an increase of the naval force.

An important circumstance attending this condition of the vessels alluded to, is, that they may be retained for any length of time in their present situation, without material injury from any cause of decay, and that this is effected at an expense scarcely worth estimating.

No. 3 exhibits the measures taken for the protection of the vessels in ordinary from further decay.

The list marked 4, giving a view of the quantity of materials for the Navy collected at the several places of depot, shows that, making all due allowance for that portion which has been rendered unfit for use by their long exposure to the weather, there is still remaining a large supply of the most valuable qualities.

The great loss which has been suffered from the causes mentioned above, has made it necessary to urge the adoption of measures to prevent its future occurrence; and instructions have been issued to provide in time the necessary houses and timber sheds, so as to guard against the injurious exposure of the materials to the weather, after they shall have been deposited at the respective Navy Yards.

The accompanying extracts of letters, marked G, addressed to the Department by the officers of the Navy, who have had opportunities of witnessing the employment of canvass made of cotton, on board their respective vessels, are herewith presented for your consideration.

The results of their observations go far to confirm the favorable anticipations which have been entertained of the value of this kind of canvass. And the opinion may now, with some confidence, be offered, that this article of domestic production will ultimately supersede the necessity for the importation of foreign hemp, for the manufacture of a large portion of the canvass required for the United States' Navy.

The laws for the government of the Navy are believed to require revision. Under the vague and indeterminate provisions of these laws, it can scarcely happen that similar degrees of punishment will be awarded for similar degrees of offence.

The tribunals invested with the power of trying persons charged with violations of these laws, may, in many cases, (if the party has been found guilty) sentence the offender to suffer the severest penalties of the law, or dismiss him with the mere nominal punishment of reprimand—the words of the law, in several of its most important articles, being that the offender shall, on conviction, &c. “suffer death, or such other punishment as the court shall adjudge.”

Amongst the evils and odious features of the law, as an institution, this very uncertainty has been cited as one justly meriting the opprobrium which has been attached to it; and, pervading as it does almost every part of this system, it furnishes, independently of other defects, an urgent motive for a reconsideration of the subject by the National Legislature.

Believing that the usefulness and reputation of the Navy are connected essentially with its obedience to the laws and regulations enacted for its government, the Department has been assiduously engaged in endeavoring to promote their proper observance, and to cause the duties of its officers, especially of its junior members, to be discharged in alternate routine, thus imposing on each a share of the burdens, and giving to all the advantages to be derived from a practical attention to them.

In a communication made to the honorable Chairman of the Committee on Naval Affairs in the Senate and House of Representatives, on the 16th February last, proposing a peace establishment, some remarks were offered supporting the opinion that it was just and expedient that an increase in the rank of its officers should constitute a part of the naval system.

While the United States' marine was confined to a few frigates and smaller vessels, no advantage could have been gained, in any point of view, from higher grades in the naval service than that of Captain. But, since the great increase in the number and size of the United States' vessels of war, and as occasions arise in the service for their combination into fleets or squadrons, other duties, arduous and responsible, and requiring the possession of superior nautical science and general intelligence, devolve upon their commanders. These higher degrees of qualification for the service, the fruit of long and unremitting devotion to their acquirement, merit a corresponding elevation in professional rank and distinction.

It has been supposed, also, that superior rank has a tendency to secure the enforcement of discipline, inasmuch as the orders of a superior are more readily and faithfully observed than those of one of equal grade.

The increase may certainly obviate some causes of irritation in the intercourse of the officers of the Navy with those of foreign nations, the least powerful of which have higher grades than are known in this service, and universally claim honors and precedence according to their rank. These must either be yielded, or intercourse suspended; and this could not but result injuriously, should it be necessary for the United States' vessels to co-operate with those of other nations in any difficult naval enterprise.

The subject of an increase of the pay of the officers of the Navy has heretofore been brought to your consideration; and you are again respectfully referred to the suggestions, offered in the report made to you on the first December last.

In anticipation that this measure will receive favorable consideration, estimates, founded on the scale of increased compensation proposed at the last session of Congress, are herewith transmitted.

The authority which is given to the Department to make allowances out of the contingent fund to cover the expenses of the officers of the Navy, for various incidental purposes, forms an important item in its duties and powers. The disposition of this large fund is wholly within

the control of the Secretary of the Navy, and its application only limited by his sense of justice and expediency.

Without urging that this discretion has, at any time, been improperly or unjustly exercised, it may be said that it unquestionably offers the means of committing great abuses by extravagant grants or allowances to some, while these benefits may be wholly withheld from others.

As far as it is practicable, these allowances, now contingent, should be specifically designated, securing, without the abuse of the fund, a just return to the parties for the sums necessarily expended for such incidental purposes.

This, in many cases, may be effected by legislative enactments, particularly as relates to travelling expenses, attendance on courts martial, either as members or witnesses, the pay of Judge Advocates, and to officers engaged on extra duty beyond the limits of their stations, &c.

In the absence of precise legal provision on these points, the allowances in future will be confined strictly to the sums believed to be necessary to meet the expenses of officers so employed.

In the report made to the honorable the Chairman of the Committee on Naval Affairs in the House of Representatives, on the 21st of January last, a recommendation was offered, proposing some modification in the powers and duties of the Board of Commissioners of the Navy.

The Department has not found cause to change the opinion then expressed, that a division of the duties of the Navy Board would have a tendency to secure the discharge of its various duties more for the public benefit; that it would especially favor this, by directing “the undivided attention of the officer to the class of duties which may be confided to his management;” “that this exclusive devotion of his time and talents to a single train of services would enable him to attain a more intimate knowledge of their interest,” to adopt a better system for their execution; and “that it would secure a stronger individual responsibility for their faithful discharge.”

The considerations enumerated above offer their own recommendation; and being in concurrence with the sentiments of the Board itself, a body which, from experience, has derived the means of forming correct opinions on the subject, it may be fairly presumed that the adoption of the measure will result in much public utility.

The documents marked H, I, K, show the number of deaths, dismissals, and resignations, which have occurred within the present year.

The estimates for the year 1831 are herewith transmitted, marked L.

The appropriations for the present year have been found more than sufficient for its current expenditures; and there will remain of them an unexpended balance, probably exceeding one million of dollars.

It has been doubted by many able and observant officers of the Navy whether the marine corps, as constituting a part of the naval force, might not be dispensed with, without materially diminishing its efficiency. On this point, the opinions of many of the superior officers of the Navy were called for, and presented to the honorable Chairman of the Committee on Naval Affairs of the Senate, during the last session of Congress. These, it appeared, were by no means in accordance with each other; and this diversity of sentiment amongst persons best qualified to determine the question has induced the Department to withhold any recommendation on the subject.

The laws authorizing the establishment of this corps provide that it shall be governed by the “same rules and articles of war as are prescribed for the military establishment of the United States, according to the nature of the service in which it shall be employed,” &c. Under this provision, it has been determined that marines, while ser-

ving at Navy Yards, shall be governed by military regulation. By this decision, two systems of discipline are brought into operation on persons employed on duty at the same establishment. The inconveniences of such an arrangement must be apparent. The perfect preservation of good order at the Navy yards demands that the commander should have the exclusive government of all persons employed in service within the limits of his command.

As a measure tending to give reputation and efficiency to the Navy, the cultivation of the minds of those who are to compose its active members is a subject of great national interest. It is a fact which will not be questioned, that the early education of the officers of the Navy is entirely unequal to the character they have subsequently to sustain.

Few appointments under the Government involve a necessity for more general and scientific attainments.—As officers of the Navy, they are required to act as judges of the law and evidence, on trials of their brother officers for offences affecting the lives and characters of the accused; as commanders of ships, they should possess not only a practical acquaintance with seamanship, but an accurate knowledge of those branches of mathematics connected with the science of navigation, with astronomy and geography, and, as commanders of fleets or squadrons, they must be well informed on all points of international law, having reference to the rights of neutrals and belligerents, the often recurring question of the rights of blockade, and other interdictions of intercourse between powers standing in this relation to each other; to possess an accurate acquaintance with the modern languages, to enable them to enter into discussions on points of difference which may arise with the representatives of foreign States speaking such foreign languages; and it may often happen that the communications can only be advantageously made in the language of the party with whom the subject of dispute may exist. The sons of the wealthy may obtain these advantages from the bounty of their parents; but, without the aid of public instruction, how are the sons of the less affluent to become qualified to command in the naval service?

It may be further remarked, that, while a school, on the most liberal and comprehensive plan of instruction, has been provided for the military talent of the country, and has been endowed with every attribute for the advancement of the education of the youth who aspire to a share in the toils or honors of a military life, the only provision which has been authorized by law for the instruction of the midshipmen in the Navy is to be found in the allowance of \$25 per month to the schoolmasters retained on board the larger vessels of war.

The reports on the concerns of the Navy Hospital and Navy Pension funds will be transmitted as soon as the accounts of the several Agents are received. The remoteness of the residence of some of the Agents of the Pension fund makes it difficult and inconvenient to obtain complete statements of their transactions to be rendered within the time prescribed by the act of 23d April, 1800.

In presenting views of the policy which it may be for the public interest should be pursued in reference to the naval establishment, it may be observed that the rapid increase of the population and general resources of the nation, which has already taken place, and is daily advancing, leaves little to be dreaded from invasions of its territory by an external foe, detached as it is from the great warlike powers of the world.

It will be on the ocean, and in the transit of its mercantile enterprise to distant markets, that the nation may be regarded as most vulnerable; and to this point should its efforts for defence be chiefly directed.

The great expense attending the support of so large a naval force as may be occasionally required to give secu-

rity to the commercial pursuits of the country, and to protect the accessible portions of the coasts from invasion and attacks of a foreign foe, makes it a matter of leading importance that a system be pursued which shall place the resources of the country in a condition to be readily brought into action whenever the necessity presents itself, without incurring the expense of maintaining such large force when its services are not wanted.

This, doubtless, will be found to be a task of much difficulty. It may, however, it is believed, in some measure be attained by steadily adhering to the course suggested to you in a former communication—to provide for the collection of supplies of all the materials for the construction of a Navy, which require much time to put them in a condition for use, and which can be preserved without material deterioration or decay; to the preparation of these by seasoning and other processes, and the preservation of them after being so prepared, until required to be used; to retain no more vessels of war in commission than are required for the immediate wants of the service, and to cause those which it may be judged proper should be built to be reserved on the stocks, properly sheltered, until their services are called for by the national wants; to provide for the effectual repair and preservation of the vessels in ordinary; to appoint to the service no larger number of junior officers than can be kept actively employed, either at sea, at the stations on shore, or in the acquirement of a knowledge of the various branches of their professional education. On this latter point, it may be remarked, that, to keep in the pay of the Government a greater number of these officers than can be usefully employed, is not only a prodigal waste of the public money, but a prodigal abuse of the character of the youth of the country. When thus appointed to the Navy, and taken from the guardianship of their natural friends, and thrown, without restraint or occupation, upon society, it can rarely happen that they escape the dissolute and enervating habits incident to a life of idleness and indulgence.

Every day's experience gives confirmation to the opinion, that the worst effects to the moral and professional characters of the Midshipmen of the Navy result from this state of emancipation from parental guardianship, unrestrained by the active discipline of the service to which they nominally belong.

Should the exigencies of the nation demand a sudden increase of the corps, it would be far safer to resort to appointments made for the occasion, than to rely upon supernumeraries thus become negligent and insubordinate, and who, if brought into service, would rather tend to weaken than to augment its strength.

Other subjects believed to have a claim to consideration are, the state of the unsettled accounts of the disbursing officers, a general survey of the coasts, harbors, &c. The former was brought to your notice during the last session of Congress: the latter, as a measure affording information on the geographical positions of the principal capes and promontories, the depth and direction of the channels of the bays and harbors, &c., is a subject intimately connected with the security and prosperity of the United States Navy. To these your attention is again respectfully invited.

JOHN BRANCH.

#### REPORT OF THE POSTMASTER GENERAL.

POST OFFICE DEPARTMENT, 30th Nov. 1830.

To the President of the United States:

SIR: I have the honor to submit the following report of the transactions, condition, and prospects, of this Department.

The expenditures of the Department, for the year commencing with the 1st of July, 1827, and extending to the 1st of July, 1828, were	\$ 1,623,893 80
The receipts, being the amount of postages returned for the same period, were	1,598,877 95
Showing an excess of expenditure beyond the revenue, for that year, of	25,015 85
The expenditures, from the 1st of July 1828, to the 1st of July, 1829, were	1,782,132 57
The amount of postages returned for the same period, was	1,707,418 42
Showing an excess of expenditure, for that year, of	74,714 15
The total expenditures from the 1st of July, 1829, to the 1st of July, 1830, were	1,932,707 95
To wit: for compensation to Postmasters,	595,234 95
Transportation of the mail	1,274,009 98
Incidental expenses	63,463 04
The amount of postages returned for the same period, was	1,850,583 10
Exhibiting an excess of expenditure beyond the revenue, for this last year, of	82,124 85
<p>This deficit of the current receipts of the last year to meet the expenditures of the department, it will be observed, has not increased, above that of the preceding year, in so great a ratio as that of the preceding year increased beyond the deficit of the year anterior to the 1st of July, 1828. The inference deduced from this fact, as well as the increasing prosperity of the Department, will be shown more distinctly in an exhibit of the receipts and expenditures of the Department, by half years, for the two preceding years. Thus the regular increase of the revenue of the Department will sufficiently demonstrate its ability, by its future receipts, to fulfil its extensive engagements, should no considerable charges be created, for a few years more, in addition to those incident to the present establishment.</p>	
The expenditures for the latter half of the year 1828, were	\$ 851,190 96
The receipts for the same period	826,255 36
Excess of expenditure	24,935 60
The expenditures of the 1st half year of 1829, were	930,941 61
The receipts,	881,163 06
Excess of expenditure	49,778 55
The expenditures of the second half year of 1829, were	948,366 74
The receipts	892,827 60
Excess of expenditure for that half year	55,539 14
The expenditures of the first half year of 1830, were	984,341 21
The receipts	957,755 50
Excess for the last half year	26,585 71

(It should be noted that the excess of this last half year would have appeared, as it actually was, but \$17,019 16, had not a portion of the current expenditures that were made in the preceding year been entered in the accounts of the first half of the present year.)

The whole amount of postages from the 1st of July, 1829, to the 1st of July of the present year, as presented in the foregoing statement, is	1,850,583 10
The amount of postage from the 1st of July, 1828, to the 1st of July, 1829, was	1,707,418 42
Giving an increase in this one year, of	143,164 68
The amount of available funds at the disposal of the Department on the 1st of July, 1829, was reported to be	230,849 07
Deduct the excess of expenditure for the last year	82,124 85
Leaves this amount of surplus	148,724 22

The system of financial operations, as mentioned in my report of last year, has fulfilled all the anticipations of its efficiency. The promptitude evinced by the "depositing Postmasters" in general, and the entire certainty of the accounts, both with the banks and those postmasters, exclusive of the security in all these transactions derived to the public from this system, have, in no small degree, contributed to the ability of the Department to meet its extensive demands.

In the several States, improvements in mail facilities have been loudly called for; and, in many instances, the growing population and extending settlements of the country have absolutely required them. In making such improvements, care has been taken so to extend them as to give the greatest possible accommodation at the least expense, and in such a manner as would be most likely to increase the revenue. It is in part owing to these improvements that the amount of revenue is so much augmented, though they have, at the same time, considerably increased the expenditures of the Department.

Between the 1st of July 1829, and the 1st of July 1830, the transportation of the mail was increased, in stages, equal to 745,767 miles a year; On horseback and in sulkies 67,104 do. do.

Making an annual increase of transportation, equal to 812,871 miles a year beyond the amount of any former period.

The annual transportation of the mail, on the 1st of July last, was about 9,531,577 miles in stages; and the whole yearly transportation in coaches, steamboats, sulkies, and on horseback, amounted, at that period, to about 14,500,000 miles.

The existing contracts for transporting the mail in the southern division, embracing the States of Virginia, North Carolina, South Carolina, Georgia, and the territory of Florida, will expire with the current year. In the renewal of those contracts, provision has been made for extending stage accommodations over 1,502 miles of post roads, on which the mail has hitherto been carried on horses only, or in sulkies, and on which the annual transportation in stages, will, from the 1st of January next, amount to 278,656 miles. The frequency of trips will also be increased on 894 miles of existing stage routes, to the annual increase of 138,358 miles; making, together, an increase of stage transportation of the mail, from the 1st of January next, of 417,014 miles a year.

Provision is also made for the more frequent transportation of the mail on different routes, as follows:

Increase of trips on horse routes	- 31,824 miles a year	
Increase of trips on existing routes, changed from horse to stage routes	- 118,456	do.
Increase of trips on stage routes	- 138,358	do.

Making, together, a total increase of 288,638 miles of transportation of mails, in a year, beyond the amount of present transportation in that division, besides the improvement of substituting stages for horse transportation.

Among these improvements are included, a line of stages from Edenton to Washington, N. C.; from Newbern to Wilmington, N. C.; a steamboat line from Wilmington to Smithville; & a line of stages from Smithville, N. C. to Georgetown, S. C.; all of which are to run twice a week each way. These arrangements will complete the regular communication, by steamboats and stages, between Baltimore, Md., and Charleston, S. C., along the sea-board, by way of Norfolk, Va., Elizabeth City, Edenton, Washington, Newbern, Wilmington, and Smithville, N. C., and Georgetown, S. C.—an accommodation desired alike by the public and the Department.

Provision is also made for expediting the mail on many important routes; among which is the whole route between this place and Fort Mitchell, via Richmond, Va. Raleigh, N. C., Columbia, S. C., and Milledgeville, Ga., which line will be traversed in two days less time than at present; so that the mail will run from this city to New-Orleans in 13 days, after the 1st of January next.

Allowing the average expense of transportation, by horse or sulkey, to be five cents per mile, and by stages to be thirteen cents per mile, which is about the mean rate paid in the southern division, the value of these improvements, exclusive of the value of increased expedition, will be as follows:

Annual amount of transportation changed from horses to stages, 278,656 miles, at 8 cents per mile,  
(the mean difference,) \$22,292 48

To be added for increased number of trips on the same, amounting, annually, to 118,456 miles, at 5 cents per mile, 5,922 80

Increased number of trips on former stage routes, amounting, annually, to 138,358 miles, at 13 cents per mile 17,986 54

Increased number of trips on horse and sulkey routes, amounting, annually, to 31,824 miles, at 5 cents per mile, 1,591 20

Making the total annual value of the improvements, \$47,793 02

The contracts have been made for the ensuing four years, from the 1st of January next, including all these improvements, at a sum less than the amount now paid for transporting the mails in that division, by \$25,047 87  
To this sum add the estimated value of the improvements, as before stated, 47,793 02

And the actual saving to the Department, in the renewing of the contracts, will amount annually to 72,840 89

Besides the very considerable amount gained in the increased expedition of the mails on many routes of great interest to the community, the value of which cannot be well estimated.

In this saving in the expense of the contracts, and the additional revenue which may be anticipated from the improvements they secure, together with the general increase of postages, which is still progressive, will be seen a foundation for the belief which has been expressed, that the current revenue of the Department for the succeeding year, will be sufficient for its disbursements.

The rules that have been adopted in relation to the conduct of postmasters, placing the investigation of all official delinquencies under the immediate superintendence of an Assistant, and subjecting them to the strict scrutiny of an able and vigilant officer, has been productive of the happiest results. There are, at the present time, in the United States, 8,401 post offices; and among that number, scattered over the whole Union, it is not possible to prevent disorders, to the great loss of individuals, and sometimes of the Department, without the unremitting and undivided attention of a competent officer. The duties of this branch of the Department, under its present organization, have, however, been so discharged as to secure as great a degree of confidence in the fidelity of its officers, generally, as could have existed in any former period, when the number was comparatively small.

I have the honor to be,

With great respect,

Your very obedient servant,

W. T. BARRY.

#### MAJOR GENERAL MACOMB'S REPORT.

HEAD QUARTERS OF THE ARMY,

Washington, Nov. 30, 1830.

SIR: In conformity with the instructions of the War Department, of the 7th of August last, I submit the following statements and returns:

1. A statement exhibiting the organization of the Army.
2. A return of the actual state of the Army.
3. A return exhibiting the strength of the Eastern department, designating the posts and garrisons.
4. A return exhibiting the strength of the Western department, designating the posts and garrisons.
5. A general map of reference, exhibiting the relative situations of the military posts occupied by the troops.
6. A statement showing the number of recruits enlisted in the Army, from the 1st of January to the 30th of September, 1830.
7. An estimate of funds required for the recruiting service for the year 1831.
8. An estimate of the expenses of the head quarters of the Army, for the year 1831.

The Army continues to maintain its character for discipline and efficiency. The reports of the Inspectors General and of the Colonels of Artillery, represent the garrisons and arsenals which they have visited, to be in good order.

Since my last annual report, the following movements and changes in the positions of the troops have been directed:

Owing to the threatened hostilities among the several tribes inhabiting the country around the Prairie du Chien, and which might eventually have led to unpleasant consequences, not only to themselves, but to our citizens on the frontiers, a detachment of four companies of the 3d regiment of infantry, in conformity with your instructions, was ordered from Jefferson barracks, to co-operate with the troops already at the Prairie and in its vicinity, in interposing the authority of the United States, and obliging the parties to desist from carrying into effect their hostile intentions. The appearance of the troops among them produced the desired effect, by enabling the commanding officer at the Prairie du Chien to exhibit a force sufficiently powerful to induce the Indians to listen to the friendly advice which he was directed to communicate to them concerning their own interests, and to respect the intimation made to them that the Government would



not behold with indifference any disposition on their part to enter into a war that would involve, not only their own immediate welfare, but also the safety of our own citizens established near their borders. About the same time, advices were received that a number of unauthorized persons had entered the country about Du Buque Mines in search of lead, in violation of the laws. The same detachment was employed in removing them. After fulfilling that duty, the detachment relieved the garrison at Rock Island, and returned to its quarters at Jefferson barracks.

Misunderstandings having been manifested among the tribes on the frontier of the Territory of Arkansas, the commanding officer at cantonment Gibson was, in conformity with your instructions, directed to use his endeavors in pacifying the Indians in his vicinity, and, if necessary, to employ the force under his command for that purpose. The Indians were informed by him of those instructions, and they yielded to his counsel and advice.

The troops which had been previously assembled upon the frontiers of the Creeks and Cherokees, in Georgia and Alabama, in consequence of the disorderly conduct manifested among those tribes, and to prevent collisions between them and the white people, were eventually marched into the Cherokee Nation, in conformity with your instructions, to guard against the difficulties which, it was apprehended, would grow out of the conflicting operations of the Cherokees and the lawless intruders upon the mineral district within the limits of the State of Georgia. Having fulfilled the instructions of the Government, the troops were directed to retire, for the winter, to their respective quarters.

In conformity with the appropriation for that purpose at the last session of Congress, preparations have been made for the military occupancy of Key West, and a company of the fourth regiment of infantry has been ordered to take post on that island.

Fort Jackson, at the Balize, near the mouth of the Mississippi, having been reported to be so far completed as to be in a condition to receive a garrison by the beginning of January next, a company of the second regiment of artillery has been ordered to occupy it. The tower constructed last year for the defence of the Bayou du Prê having been finished, it has, in like manner, been garrisoned by detachments of the same regiment from forts Wood and Pike.

Agreeably to your instructions, two companies of the third regiment of infantry from Jefferson barracks have been ordered into the Choctaw nation; and four companies of the same regiment, and from the same station, have been directed to proceed to the Red river, to strengthen our positions, and to preserve quiet amongst the Indians in that quarter.

In consequence of the application of the Governor of Louisiana, the troops stationed at Baton Rouge, and at the posts within Louisiana, had been directed to co-operate with the authorities of that State in suppressing any insurrectionary movements that might be discovered. A battalion of the fourth regiment of infantry assembled at New Orleans, and made a demonstration along the banks of the Mississippi, which produced a salutary effect.

Some of the principal fortifications on the sea-board being in a condition to receive their armament, I feel it my duty to bring the subject to your consideration, as they are, at present, without any means of defence, and but little preparation made towards a supply of ordnance and ordnance stores. As the guns required for these fortresses must principally be of very heavy metal, and few or none of which are, as yet, cast, it must naturally require not only large appropriations, but a considerable time, to furnish them. At the rate at which the Ordnance Department is now proceeding, many years must elapse before a sufficient supply can be furnished for

the defence of the sea coast: in the mean time, circumstances may arise which would place us in a very awkward predicament; for, if our strong holds should fall into the hands of an enterprising enemy, bringing with him the necessary means for completing their defence, the works will become, instead of our protection, the means of our annoyance. It appears from the report of the Ordnance Department, of November 30th, 1829, that the usual annual appropriation of one hundred thousand dollars would not complete the armament of the new fortifications short of twenty years, while most of the works will have been completed in 1832.

It was my intention to have noticed, in this report, the evil consequences resulting from the allowance of ardent spirits to the troops, as a part of their daily ration, but your late order, directing the abolishment of the issue of that portion of the ration has anticipated all my wishes in that regard. The most sanguine hopes are entertained that, as soon as the excessive use of ardent spirits can be restrained, the most happy result may be anticipated in the inclevation of the physical and moral condition of the rank and file of the army.

Respectfully submitted,

ALEX. MACOMB,

Major General, Commanding the Army of the U. S.  
To the Hon. JOHN H. EATON,  
Secretary of War.

## REPORT OF THE CHIEF ENGINEER

ENGINEER DEPARTMENT,

Washington, November 19, 1830.

SIR: In compliance with the instructions from the War Department of the 7th August, I have the honor to present the following report and statements, relative to the operations of this Department during the year ending on the 30th September last.

### 1. FORTIFICATIONS.

The construction of the several fortifications enumerated in my last annual report has been actively and successfully continued.

Fort Hamilton, in the harbor of New York, and Fort Jackson, at Plaquemine Bend, will, in a few months, be ready to receive their garrisons; and the tower at Bayou Dupre, near New Orleans, is completed, and was, on the 31st July last, reported to receive a guard.

Of the appropriation for contingencies of fortifications, the balance of last year's appropriation, and about \$7000 of that of the present year, have been drawn from the Treasury, to be applied chiefly to repairs at Fort Trumbull, Connecticut; Fort Columbus and Bedloe's Island, New York; Fort Delaware, Delaware river; Forts Mifflin and Washington, Maryland; Fort Moultrie, South Carolina; and Fort Wood, Louisiana. A small portion of that sum has also been applied to defray the expenses of the Board of Engineers for fortifications, and those incident to a resolution of the Senate relative to an examination of sites for an armory on the Western waters, a report on which was presented to the Senate at the last session of Congress.

### 2. CIVIL CONSTRUCTIONS.

1. *Huron River, Ohio.*—The western pier at the entrance of this river having been completed, there remains to construct only a part of the eastern pier, about 60 yards in extent, across the outer bar. The depth of water in the channel of entrance has increased to nine feet at the shallowest part.

2. *Black River, Ohio.*—At the mouth of this river, about 300 yards of pier work have been constructed during the past year, the effect of which has been such as

to warrant the most favorable anticipations from the completion of the proposed plan.

3. *Cleveland Harbor, Ohio.*—This harbor, at the mouth of Cuyahoga river, which is of great importance to the navigation of lake Erie, as being the outlet of the Ohio canal, has been greatly improved by the works erected for removing the obstructions at its entrance, and it will now admit the largest class of vessels which navigate the lake. To secure this advantage, a further extension of the western pier into deep water is required.

4. *Grand River, Ohio.*—The piers at the mouth of this river sustained some damages from having been left in an unfinished state, as mentioned in my last annual report, for want of funds to complete them during the year 1829, in consequence of which, the appropriation made this year for their completion has not been sufficient to effect that object. These works, like the others of a similar character on the lake shore, have been productive of great improvement in the navigation which was to be benefited by them.

5. *Ashtabula Creek, Ohio.*—The operation of dredging a channel through the bar at the mouth of this creek has been continued with success during the past year. In order to render the entrance more accessible, it is proposed further to extend the piers which form the channel, and an estimate for that purpose has been submitted to you.

6. *Conneaut Creek, Ohio.*—To the piers at the mouth of this creek, which were commenced last year, there has been added a length of 358 yards of pier work, the effect of which, and of the dam across the former outlet, is already manifested by an increased depth of the channel, which has now six feet water.

7. *Presque Isle Bay, Pennsylvania.*—The improvement of the channel of entrance into this harbor still continues, and there is now not less than nine feet water on the bar. The object of the estimate presented this year is to obtain the means of repairing damages sustained, during a gale last winter, by a dike constructed by the State of Pennsylvania.

8. *Dunkirk Harbor, New York.*—In completing the pier constructed as a breakwater to protect this Harbor, and securing it against the injury to be apprehended from leaving it, during the winter, in an unfinished state, the cost has exceeded, by about \$700, the appropriation for this year; and that sum is, therefore, required to pay the arrearages due on account of the work.

9. *Buffalo Harbor, New York.*—During the past year the south pier and mole, forming the entrance to this harbor, have been completed to within 100 feet of their intended termination on the pier head proposed to be constructed as a foundation for a beacon.

10. *Black Rock Harbor, New York.*—The pier and mole enclosing the western side of this harbor have been completed; but the cost of the work done during the last year, has exceeded, by about \$1,800, the amount of the appropriation. This expenditure was considered absolutely necessary, in order to avoid jeopardizing the safety of the whole work, by leaving an important part of it in an unfinished state.

With regard to the three harbors last named, viz: those of Dunkirk, Buffalo, and Black Rock, it is proper to remark that their protection is not completed by the construction of the works already commenced; but, as appropriations for the remaining works at these and other points were contained in a bill which was passed at the last session of Congress, but did not become a law, no notice is taken of them in the estimate for next year.

11. *Genesee River, New York.*—To the piers designed to facilitate the entrance into this river, there has been added, during the last year, a length of about 270 yards; and they will have been extended, by the close of this quarter, as far as the means afforded will allow. The benefit of the works, though incomplete, is already felt by those engaged in navigating Lake Ontario.

12. *Big Sodus Bay, New York.*—The first appropriation for improving the entrance into this Bay having been applied to constructing a portion of the pier on the western side of the Bay, a corresponding pier on the eastern side has been commenced, and extended to a distance of 423 yards from the shore; and it is expected that an equal quantity of work will be done next year, the estimate being based on that supposition.

13. *Oswego Harbor, New York.*—The balance which remained of the appropriation made in 1829 for improving this Harbor, has been applied to the construction of 164 yards of the eastern pier, to complete which, according to the original plan, an additional length of 60 yards is required. To finish this pier, and pay a balance due the contractors, according to agreement, an estimate which was submitted last year, but on which no funds were appropriated, is again included in the general estimate.

14. *Lovejoy's Narrows, Kennebeck River, Maine.*—A contract has been made for completing the removal of the obstructions to the navigation of the Kennebeck river at this point, and the operations have been attended with such success as to warrant the belief that the funds available will be sufficient to effect the object by the close of next year.

15. *Kennebunk River, Maine.*—The new pier at the entrance of this River has been completed, as was anticipated in my last annual report.

16. *Berwick Branch of Piscataqua River, Maine.*—The operations for deepening the channel of this river have been successfully carried on during the last year. The shortness of the season for working in the water, and the occurrence of frequent rains during the summer, have prevented their completion, which may, however be expected during the next year, the balance of funds available being thought sufficient for the purpose.

17. *Merrimack River, Massachusetts.*—The small appropriation made at the last session of Congress for the works at the mouth of the Merrimack, was sufficient only to enable the agents to give a greater degree of stability to the work previously constructed, which stands well. An appropriation for completing their construction was embraced in the bill of the last session, "for erecting light-houses, &c." which did not become a law, the same amount will, therefore, be required for the ensuing year.

18. *Deer Island, Boston Harbor, Massachusetts.*—The sea wall for the preservation of Deer Island is nearly completed, and is represented by the inspecting officer as a fine piece of masonry, with regard both to materials and workmanship.

19. *Plymouth Beach, Massachusetts.*—The security and growth of this beach, though aided by artificial means, are chiefly the result of natural causes, the beneficial effects of which continue to be perceived.

20. *Provincetown Harbor, Massachusetts.*—An agent has been employed to apply the funds appropriated for the preservation of this harbor to the planting of beach grass, and such other measures as the available means may enable him to take, for effecting the object in view. Additional funds are requisite for this purpose, but no estimate is presented, as an appropriation was included in the bill which passed at the last session of Congress, "for erecting light houses, &c."

21. *Hyannis Harbor, Massachusetts.*—On the breakwater intended to protect this harbor, there have been deposited since the 30th September, 1829, between 5,000 and 6,000 tons of stone, by which the work has been extended about 250 feet, in a substantial manner.

22. *Nantucket Harbor, Massachusetts.*—The dredging machine used in cutting a channel through the bar at the entrance of this harbor has been kept in constant operation, whenever the state of the weather would admit of it; and it is expected that the channel will be carried quite through by the close of the working season. That part of it already excavated preserves its depth, and seems to increase in width, from which circumstance it

is thought, that, on completing the cut, the action of the current will be sufficient to keep it open.

23. *Stogington Harbor, Connecticut*.—The materials for constructing a breakwater to protect this harbor having been procured on very favorable terms, considerable progress has been made towards its completion, which will be effected next year, by means of the funds now available.

24. *Mill River, Connecticut*.—The breakwater and dike for improving the navigation of this river are completed. The excavation of the channel, commenced this year, but interrupted by the approach of cold weather, will be continued next summer.

25. *Harbors of New Castle, Marcus Hook, Chester, and Port Penn, Delaware River*.—Under an appropriation made at the last session of Congress, a dredging machine has been contracted for, and will be applied to deepening these harbors; but, owing to the lateness of the period at which the law was passed, the machinery was not finished before the 30th of Sept. last; a hired machine has, however, been in operation during the summer.

26. *Ocrueck Inlet, North Carolina*.—The dredging machine to be used for deepening this inlet was completed and put into successful operation on the 7th August, proving capable of excavating 24 cubic yards per hour. In consequence, however, of the tempestuous weather between that date and the end of September, but little progress has yet been made in opening the channel. Sufficient funds remain to carry on the operations next year.

27. *Cape Fear River, North Carolina*.—Considerable progress had been made in the construction of jetties designed to improve the navigation of this river below the town of Wilmington, when the occurrence of a gale of unusual violence in August, caused the destruction of a greater part of the works. The materials have, however, again been collected, without much loss, and the injury will be repaired as soon as practicable.

28. *The Inland Passage, between St. Mary's and Georgia, and St. John's, Florida*, has been opened so as to admit, at high water, vessels drawing not more than  $5\frac{1}{2}$  or 6 feet.

29. *St. Mark's River, Florida*.—The operations for improving the navigation of this river have been confined to the removal of trees overhanging the channel, and of the logs in the bed of the river—work which has been performed by common labourers. The chief obstructions, being oyster reefs near its mouth, can be removed only by the aid of machinery, which will be procured during the ensuing winter.

30. *Appalachicola River, Florida*.—The sum of \$2,000 appropriated for improving this navigation, has been found insufficient to procure such machinery as would produce any considerable benefit. A part of it has, however, been applied to the removal of snags from some of the most difficult passes of the river; and an estimate of funds required for further operations has been presented to you.

31. *Harbor of Mobile, Alabama*.—A dredging machine for deepening the channel through Choctaw Pass, in this harbor, was in operation from the 1st of April to the 10th of September, when it was withdrawn for repair; but the excavations not having the depth required by contract, no payments were made to the contractor prior to the 30th September.

32. *Pass au Héron, Alabama*.—The machinery employed in the operations at this pass having been much injured in a gale last autumn, it was not until late in the summer that the work could be resumed. The engineer anticipates the opening of the pass by the 1st December.

33. *Pascagoula River, Mississippi*.—About 3,000 cubic yards of earth have been removed from the bar at the mouth of this river. The operations were suspended on the 15th of August, the prevalence of easterly winds rendered it impracticable to continue them in such an ex-

posed situation, and the dredging machine was transferred for a time to Pass au Héron.

34. *Red River, Louisiana*.—The operation of opening a channel round the Great Raft of Red river has been commenced, since my last annual report, on the section of the river at the upper part of the Raft, between the outlet of Red Bayou and Clear lake, a distance of about nineteen miles, twelve of which have been cleared out and rendered navigable for boats.

35. *Mississippi River*.—The steamboat and other machine boats employed on this river have operated, during the past year, between the mouth of the Missouri and Bayou Sarah, a distance of more than 1,000 miles, in removing snags and fallen timber; and a large force has been, at favorable times, engaged in cutting snags from the sand bars that are dry at low water, and, at some points, in cutting the timber from the shores of the river, to prevent the formation of new snags. By means of the steamboat alone, more than 2,000 snags have been removed from the channel between the points above designated.

36. *Ohio River*.—The work at the Grand Chain has been actively carried on during the low stage of the water; and the Superintendent reports that all the dangerous rocks in the Chain have been removed by blasting, and buoys prepared to designate the channel thus formed.

The operations on the Mississippi and Ohio rivers were carefully inspected, last summer, by an officer of the Corps of Engineers, whose report is highly favorable as to the skill and industry of the Superintendent.

37. *Cumberland Road in Ohio, West of Zanesville*.—For this branch of the national road, the annual report of its condition on the 30th of September last is not yet received, which precludes the possibility of stating what its condition was at that time; but, from an inspection report made in August last, it is stated that the arrangements adopted by the Superintendent for its progress were judicious, and conducted with zeal, and that the instructions of the Department in relation to it were strictly observed.

38. *Cumberland Road in Indiana*.—Under the contracts of last year, this road has been opened and grubbed the whole distance through the State, and the operation of grading it is now in progress. Stone being scarce, bricks and wood will be chiefly used in the construction of the bridges and culverts, which will not be commenced until next year.

39. *Cumberland Road in Illinois*. Contracts have been made for opening and grubbing this road between the eastern boundary of the State and Vandalia, a distance of 66 miles, of which the 59 miles east of Vandalia are to be finished by the close of this year; the remainder by the 1st of April, 1831. The contracts are made on very low terms, involving an expenditure of about \$11,000.

40. *Road from Detroit to Chicago, Michigan*.—The contracts which were made last year for constructing the unfinished parts of this road, between Detroit and the 64th mile, have been in most cases complied with, as anticipated in my last report, a few quarter-mile sections only remaining to be completed. Under the appropriation for 1830, contracts have been made for continuing the road to the 86th mile, before the 15th July, 1831.

41. *Road from Detroit to Fort Gratiot, Michigan*.—The construction of  $17\frac{1}{2}$  miles of this road, as reported last year, was contracted for in 1829, has been completed, with the exception of some repairs, which the contractors are bound to make; and to cover the expense of which, 10 per cent. of the value of work done is reserved. Further contracts have been also made for continuing the road to the end of the 32d mile from Detroit, being as great an extension as the funds will authorize.

42. *Road from Detroit to Saganaw, Michigan*.—The progress made in the construction of this road is nearly

the same as that on the fort Gratiot road; 17½ miles having been completed, and contracts made for continuing the work to the end of the 1st quarter of the 33d mile.

43. *Road from Detroit to Maumee, Michigan*—Is completed. A balance of \$14 75 remains due to the Superintendent, as stated in the general estimate for 1831.

### 3. Surveys ordered by Special Acts or Resolutions of Congress.

The surveys for which appropriations were made at the 2d session of the 20th Congress, and which are enumerated in my last annual report, were completed and reported to Congress during the last winter.

A survey of the Wabash river, with a view to improving its navigation, and an examination of certain proposed sites for bridges over the Ohio river, have been made; but the officer charged with these surveys having been necessarily assigned to other duty, his reports on these subjects are not yet completed.

In pursuance of a resolution adopted by the House of Representatives on the 6th April last, a survey of the obstructions to the navigation of the Delaware and Raritan rivers, about the proposed points of junction with a canal across New Jersey, has been made, and the maps and report are in preparation.

The act appropriating funds for the location of a canal across the peninsula of Florida was passed too late in the season to permit of any thing being done towards effecting the object before this autumn, when arrangements were made for commencing the survey.

### 4. Surveys under the act of 30th April, 1824.

Under this head the following surveys have been in progress during the summer of this year:

1. Surveys, with a view to connect the waters of lake Champlain with those of the Connecticut river, by the valleys of Onion and Wills rivers, Vermont.

2. Survey, with a view to unite the Connecticut and Pemigewasset, by the valley of the Oliverian, New Hampshire.

3. Survey of a canal route from Taunton to Weymouth, Massachusetts.

4. Survey of the Connecticut river, with a view to the improvement of its navigation by canals or otherwise.

5. Survey of a route for a rail road from Catskill to Canajohare, New York.

6. Surveys, with a view to connect the waters of lakes Erie and Michigan with those of the Ohio, Indiana.

7. Survey of a route for a canal from lake Michigan to the Illinois river, Illinois.

8. Survey of the falls of the Ohio at Louisville.

The field work of all these surveys is completed, except those of the Taunton and Weymouth canal, and of the lake Michigan and Illinois canal: the completion of the latter was prevented by the illness of the engineers employed on it.

At the request of the Pennsylvania Canal Commissioners, a topographical engineer has been associated with engineers appointed by them to make certain examinations concerning the best mode of crossing the Alleghany summit of the Pennsylvania canal. The Baltimore and Susquehanna Rail Road Company have been likewise aided in their surveys by some of the officers of this Department.

### 5. The Board of Internal Improvement.

After completing the duties on which it was engaged at the date of my last report, has been occupied chiefly in preparing a plan and estimate for improving the navigation of the Tennessee river, at the Muscle and Colbert shoals.

### 6. Military Academy.

For the condition of this institution, and the measure required for its further improvement, I beg leave to refer

you to the very full report made by the Board of Visitors, at the last general examination.

### 7. Office of the Chief Engineer.

On the several resolutions of Congress, and other subjects, from time to time referred to this office, I have had the honor to make special reports. The map of the United States, required by the House of Representatives, for the use of the Committee on Commerce, is in progress, and nearly completed.

The resolution of the House of Representatives, requiring a survey at or near the outlet of lake Champlain, with a view to preparing a project of defence for that part of the frontier, has not been complied with, in consequence of the unsettled state of the question of boundary between the U. States and Canada, at that point.

A lithographic press for the War Department, for the purchase of which an appropriation was made at the last session of Congress, having been attached to this office, has been used in printing maps, circulars, &c.

The completion of several of the fortifications now under construction being near at hand, it is respectfully recommended that arrangements be made for continuing the system of defence by commencing others. An estimate of the funds that will be required for these and other new objects will be submitted to you.

The fiscal concerns of the Engineer Department are fully exhibited in the annexed statements, A and B.

Statement C shows the fortifications remaining to be constructed, in order to complete the projected system of defence of the sea-board.

Respectfully submitted,

C. GRATIOT,

Brig. Gen. & Chief Engineer.

To the Hon. JOHN H. EATON, Sec'y of War.

### FORTIFICATIONS.

Table exhibiting the works projected by the Board of Engineers, which have not been commenced, and the estimate of their cost.

#### First Class—to be commenced as soon as possible.

Designation of the works.	Estimate of their cost.
Fort St. Philip, Louisiana	\$ 77,810 79
Fort at Soller's Point Flats, Patapsco river	673,205 44
Fort Tompkins, New York	420,826 14
Redoubt in advance of ditto	65,162 44
Fort at Wilkin's point, New York	456,845 51
Fort at Throg's point, New York	471,181 53
Fort at Dumpling's point, Rhode Island	759,946 57
Fort at Rose Island, Rhode Island	82,411 74
Dykes across west passage, Narragansett roads	203,000 00
For the defence of Boston harbor:	
Fort on George's Island	458,000 00
Fort on Nantasket head	539,000 00
Lunette in advance of ditto	79,000 00
Redoubt No. 2 in advance of ditto	32,000 00
Redoubt No. 1 (on Hog island) in advance of ditto	29,000 00
Dyke across Broad Sound passage	140,000 00
Cutting off the summit of Gallop island	2,429 00
Works for the defence of Conanicut island, Narragansett bay, Rhode Island	220,055 43
	\$ 4,531,873 10

#### Second Class—to be commenced at a later period.

Fort at Grand Terre, in Louisiana	\$ 264,517 52
Tower at Pass au Heron, Bay of Mobile	16,677 41
Fort at Hawkins' Point, Patapsco river	244,337 14
Fort at St. Mary's, Potomac river	205,602 33
Fort opposite the Pea Patch, Delaware river	347,257 71

Fort at the Middle Ground, outer harbor of New York	-	-	1,681,411	66
Fort at East Bank, do do	-	-	1,681,411	66
Fort Hale, Connecticut	-	-	31,815	83
Fort Wooster, do	-	-	27,793	34
Fort Trumbull, do	-	-	77,445	21
Fort Griswold, do	-	-	132,230	41
Fort on Fort Preble Point, Portland Harbor, Maine	-	-	103,000	00
Fort on House Island do	-	-	32,000	00
Fort Pickering, Salem	-	-	116,000	00
Fort for Naugus Head, do	-	-	35,000	00
Fort Seawell, Marblehead	-	-	116,000	00
Fort for Jack's Point, do	-	-	96,000	00
Fort on Bald Head, North Carolina	-	-	120,000	00
Fort on Federal Point, do	-	-	12,000	00

\$5,340,500 22

*Third Class—to be commenced at a remote period.*

The rafts to obstruct the channel between Fortress Monroe and Fort Calhoun	-	-	\$240,568	00
Fort, Craney Island Flats	-	-	258,465	14
Fort at Newport News	-	-	244,337	44
Fort on Naseway Shoal	-	-	673,205	00
For the defence of Patuxent river.	-	-		
Fort on Thomas' Point	-	-	173,000	00
Fort on Point Patience	-	-	164,000	00
Fort on the narrows of Penobscot river, Me.	-	-	101,000	00

\$1,854,575 58

RECAPITULATION.

First class, 17 works	\$4,531,873	10
Second class, 19 works	5,340,500	22
Third class, 7 works	1,854,575	58

\$11,126,948 90

REMARKS.

The classification in this table, distinguishing three periods, exhibits the works enumerated in the order of their efficiency to meet the earliest possible emergency.

REPORT OF THE QUARTERMASTER GENERAL.

QUARTERMASTER GENERAL'S OFFICE,  
Washington City, Nov. 23, 1830. }

SIR: In compliance with your order, I have the honor to report the operations of this Department during the 1st, 2d, and 3d quarters of the present year, to which I have added the 4th quarter of 1829—thus presenting the results of an entire year.

The balance in the hands of the several officers, on the 30th of September, 1829, amounted to \$46,367 68

To which is to be added the amount remitted in the

4th quarter of 1829	\$113,688	84
1st quarter of 1830	133,791	22
2d quarter of 1830	184,024	00
3d quarter of 1830	282,078	41

\$713,582 47

Proceeds of sales of damaged public property, and of the rents of lands and public buildings not required for military purposes, during the above period

7,742 71

Making a total to be accounted for of \$767,692 86  
Of which there was accounted for by accounts of the 3d quarter of 1829, rendered

after the date of the last annual report, 7,033 10

In the 4th quarter

of 1829 139,050 72

1st quarter of 1830 102,972 11

2d quarter of 1830 178,381 96

3d quarter of 1830 275,711 30

\$703,149 19

Deposited during the year to the credit of the Treasurer

1,864 32

\$705,013 51

Leaving to be accounted for

\$62,679 35

The accounts of five officers for the 3d quarter are yet to be received, which, it is believed, will reduce the balance about \$7,000; and it has been ascertained from the statements already received for the month of October, that more than \$48,000 of the balance was applied during that month to the public service. I entertain not a doubt that the whole amount will be accounted for at the close of the present quarter. The large amount of public property under the administration of the Department, whether in the hands of its officers or those of companies, is regularly and promptly accounted for.

I have been able to make a reduction in the estimates for the Department proper of about 14,000 dollars: with judicious administration, the sum asked for will be sufficient for the service of the year.

Of the works under the direction of the Department, the barracks at fort Crawford, authorized by appropriations made at the two last sessions of Congress, are in such a state of forwardness as to leave no doubt of comfortable accommodations being prepared for four companies during the present year; and it is believed the appropriation will be sufficient, or nearly so, to complete the works contemplated.

The officer charged with the improvements at Jefferson barracks, authorized at the last session of Congress, reported on the 1st instant that they would be entirely finished by the 15th instant. The appropriation will be sufficient.

The barracks and quarters authorized at New London, Connecticut, by appropriations made at the two last sessions of Congress, have been completed. A small tract of land adjoining the post is necessary for the accommodation of the garrison, for the purchase of which I have submitted an estimate.

The barracks authorized at fort Severn have been completed as far as the appropriation would admit: about three hundred dollars are required to finish them, and an appropriation is necessary for officers' quarters, for which an estimate has been submitted.

Under an appropriation made at the last session of Congress for barracks and quarters at fort Gratiot, operations were commenced early in the season, and, at the date of the last report, the work had so far advanced as to leave but little doubt of its completion during the ensuing winter.

The title to the land occupied by the military at fort Howard, Green bay, being unsettled, it was considered advisable to defer, for the present, the erecting of the barracks and quarters authorized at that place by an appropriation made at the last session of Congress.

At the date of my last annual report, about one-third of the military road in the State of Maine had been put under contract. Owing to the difficulties encountered by the contractors, only a small portion of the work was executed in the last year. It has, however, been completed in the present season; and the remainder of the road through to Houlton has been put under contract, and is in progress of execution. Operations were delayed in the early part of the year by the extravagant nature



21st Cong. 2d Sess.]

*Documents accompanying the President's Message.*

of the proposals which were received in the first instance. The prices offered were so unreasonable as to induce the determination to reject the bids, and extend the time for completing the road to another season; by which course, contracts have been formed on more favorable terms.—The road is now in such a state of forwardness as to be passable for carriages a greater part of its course, and will form an excellent winter communication between Bangor and Houlton. The great number of streams which require bridges will increase the expense somewhat beyond the estimate of last year, and will render a small additional appropriation necessary.

Operations were commenced early in the year on the road leading from St. Augustine to New Smyrna, in Florida, and were continued until the sickly season set in, when they were necessarily suspended. The section lying between Tomoka and Spruce creek, a distance of twenty miles, and comprehending several bridges and many causeways, has been completed. The work was resumed on the 1st instant, and the officer charged with its superintendence reports that the remainder of the road through to New Smyrna will be finished by the middle of the next month.

The military road from Pensacola to Tallahassee, and thence to St. Augustine, has been repaired as far as the appropriations made for that object would authorize. The eastern section, however, lying between Alachua court-house and Picolati, on the St. John's river, a distance of about sixty miles, has not received any repairs. The inhabitants in that vicinity represented that the road leading from Alachua court-house to Jacksonville would afford greater convenience to the settlements, and it was deemed advisable to apply the appropriation exclusively to that portion of the military road lying between Alachua and Tallahassee.

Instructions have been given, under the provisions of the act of the 31st May last, to repair the road from Alachua court-house to Jacksonville. The bridge authorized to be erected over the St. Sebastian river, near St. Augustine, where the military road crosses that stream, has been finished during the present year.

The road from Alachua to Marianna, in Florida, for which an appropriation was made at the last session of Congress, has been chiefly put under contract, and is progressing satisfactorily. Operations have been suspended on a portion of it, with a view to a better location of the route, by which the distance will be shortened.

The operations for the improvement of Sackett's Harbor, suspended during the last winter, were resumed on the 13th of April, and the officer charged with the work reports that every thing required to be done will be accomplished during the present season, and that no further improvements will be necessary for many years to come.

Operations were resumed at the Delaware breakwater about the first of April, and have been attended with a success beyond our most sanguine expectations.

The contractors were bound, by the terms of their contract, to deliver seventy thousand perches of stone, positively, and twenty-six thousand perches, conditionally; but, in consequence of the loss of all their fixtures at their quarries on the Hudson by the ice, they were not only subjected to a heavy loss, but were delayed in their operations. We had the power to declare their contract void, but permitted them to go on and deliver as much as they had it in their power to furnish during the season. As the public interests, however, required that the work should be vigorously prosecuted, we availed ourselves of the act of the contractors to purchase from others. The contractors delivered about forty thousand perches, and we purchased from others upwards of seventy thousand; making the whole quantity deposited equal to one hundred and eleven thousand five hundred and nine

perches. This, added to twenty-three thousand five hundred and seventy perches, deposited last year, makes the whole quantity deposited to the present time one hundred and thirty-five thousand and seventy-nine perches. The length of the deposit of stone on the *breakwater* is upwards of one thousand feet, or more than one fourth of its intended length; and that of the deposit on the *ice breaker* is upwards of eight hundred feet, or more than one half of its proposed length. The lower point of the ice-breaker and the upper point of the breakwater are brought up quite to the level of high water, and comprise each an area of seventy by one hundred feet at the plane of low water.

The effect of the deposit already made, as a barrier to the force of the ocean, has been experienced by vessels in several instances during heavy gales of wind which prevailed in the latter part of the season; for, although there is but a small part of each dyke above the plane of low water, the remainder being but a few feet below that plane, has contributed to make a harbor. By limiting the deposits of the ensuing season to the present foundations, the works can be brought up to their destined height, and made to afford shelter to a number of vessels, particularly those engaged in the execution of the work. The numerous wrecks that took place in August last, have proved how much such a shelter is required.

The whole of the appropriation applicable to the work during the present season will be required to meet the public engagements to the close of the year; and, in addition to the sum of sixty-two thousand dollars, appropriated for the first quarter of the next year, a further appropriation of two hundred and eight thousand dollars will be required for the service of that year; and it is respectfully recommended that an appropriation be asked for the year 1852.

Having been called on at the last session of Congress for an estimate of the expense of mounting a portion of the infantry for the defence of the western frontier, I take this occasion, as a western citizen, to remark, that the nature of the country south of the Missouri river, and the character, habits, and resources of the Indians who inhabit or range on it, are such as to render it impossible to secure that frontier by infantry alone, how numerous or well appointed soever they may be, unless horses be provided to mount them. As well might we leave the defence of our maritime frontier, and the protection of our foreign commerce, to the artillery stationed on the sea board. The means of pursuing rapidly, and punishing promptly, those who aggress, whether on the ocean or on the land, are indispensable to complete security; and if ships of war are necessary in the one case a mounted force is equally so in the other. Were we without a Navy, depredations might be committed upon our commerce with entire impunity, not only on the high seas, but within our harbors, and in view of our forts. So, without a mounted force south of the Missouri, the Indian, confident of the capacity of his horse to bear him beyond the reach of pursuit, despises our power, chooses his point of attack, and often commits the outrages to which he is prompted, either by a spirit of revenge or a love of plunder, in the immediate vicinity of our troops; and the impunity of the first act invariably leads to new aggressions. To compel him to respect us, we must make him feel our power, or at all events convince him that the guilty can have no security in flight.

I would therefore respectfully recommend that provision be made to mount at least one company at each of the posts south of the Missouri: and I have the honor to be, sir, your obedient servant,

TH. S. JESTUP, *Quartermaster General.*

The Hon. JOHN H. EATON,  
*Secretary of War, Washington City.*

## REPORT OF THE PAYMASTER GENERAL.

PAYMASTER GENERAL'S OFFICE, }  
Washington City, Dec. 1, 1830. }

SIR: I have the honor, herewith, to submit a tabular statement of the funds advanced to paymasters, from the 1st day of October, 1829, to the 30th of September, 1830; the balances unexpended, and deducted from the estimates for the fourth quarter of the present year; and the balance yet to be accounted for; also exhibiting the period to which the troops in each district have been paid.

From this statement it will be seen, that, of the \$1,205,100 drawn from the Treasury, there remains but \$13,084 45 to be accounted for; and I have information that the payments for which this last sum was advanced have been made, but the accounts have not yet reached me; they will probably be received before the close of this week, when the whole will be accounted for without the loss of a cent.

I have the satisfaction to add, that on no former occasion have the payments, generally, been brought to such late periods, or the accounts so fully rendered.

Most respectfully, your obedient servant.

N. TOWSON, Paymaster-General.

The Hon. J. H. EATON, Secretary of War.

## REPORT FROM THE ORDNANCE DEPARTMENT.

ORDNANCE OFFICE,  
Washington, November 30, 1830.

SIR: I have the honor to submit herewith a general report of the operations of this office during the year past.

Statement marked A exhibits an account of the moneys drawn from the Treasury, and remitted through this office, during the year 1829, to disbursing officers and contractors; and, also, the amount of accounts rendered, and the balance remaining in the hands of each at the close of the year. By this statement, it appears that the remittances, during the year 1829, amounted to

\$991,496 48

That the accounts rendered and settled, during the same period, amounted to

957,094 55

And that the unexpended balances remaining in the hands of the several disbursing officers at the close of the year, amounted to

\$34,401 93

Statement B shows the amount of funds transmitted to the several disbursing officers of this Department, and to contractors, during the three first quarters of the present year; by which it will be seen that the total amount transmitted was

\$708,087 91

And that the accounts rendered amounted to

620,423 25

Leaving an unexpended balance in the hands of disbursing officers, on the 30th September, of

\$87,664 66

Statement C exhibits an account of some of the principal articles made at the several armories and arsenals, during the year ending 30th September, 1830; by which it will appear that 26,125 new muskets, with their various appendages, have been made at the armories; and that 20,956 small arms have been cleaned and repaired: 2,101 holsters, about 700 sets of accoutrements for small arms, and 90 new gun carriages, have been made at the arsenals.

Statement D exhibits the number and description of arms, artillery, and other ordnance supplies, issued by this Department to the Army, and to the Engineer De-

partment, during the year ending 30th September, 1830; by which it will be seen that 965 small arms, 16 gun carriages, and about 1,000 sets of accoutrements for small arms, are among the principal articles issued to the army: 937,700 pounds of lead were issued to the Engineer Department.

Statement E exhibits an account of the expenditures made, and of the arms, and artillery carriages and equipments procured, under the act of 1808, for arming and equipping the militia, during the year ending 30th September, 1830; from which it will appear that the arms procured are, 11,240 muskets, 361 repeating and Hall's rifles, 2,101 holsters, and 86 field artillery carriages, with their various equipments; and that the amount expended was 187,520 39 dollars.

Statement F exhibits an account of the arms apportioned to each of the several States and Territories, for the year 1829; and of the artillery, arms, and other military equipments, distributed to the militia, during the year ending September 30, 1830.

Statement G exhibits the general results of the operations of the public lead mines, during the year ending 30th September, 1830; to which is appended a brief statement, showing the quantity of lead made at these mines, in each year, from 1821 to the present time. By these statements it will be seen that the rents which accrued during the year past amount to 563,567 pounds, being 890,564 pounds less than the rents of the previous year. The quantity of lead made at the public mines, during the last year was 8,332,058 pounds, being less than the product of the previous year by 6,209,252 pounds. This falling off in the quantity of lead made is to be attributed to the low price which the article has borne in the market for two years past. The same cause has diminished the rents, but these have been further reduced by the lower rates at which rents have been charged since the 1st of January last.

The quantity of lead which has accrued to the United States, for the rent of the mines, during the year past, if sold in the market, would barely suffice for paying the expenses of collection.

It is not probable that any considerable extension of the mining operations will be made for years to come; for it is now satisfactorily ascertained that our mines have yielded, for a few years past, a much larger supply than the consumption of the country requires; and, unless a market for the excess be found in foreign countries, it is not to be expected that even the present rate of production can be sustained. During the past year, a great number of miners have abandoned the business, because the low price of lead did not afford an adequate compensation for the labor of procuring it.

It appears, upon a careful examination of the Treasury statements for a number of years past, that the whole quantity of lead, in all its various forms, which was imported during a period of ten years, commencing with 1819, amounted to an average, per annum, of

7,835,923 lbs.

And that, during the same period, the quantity exported averaged

1,338,218

Leaving for domestic consumption an average of

6,497,705

Which consisted of the following kinds,

viz :  
Of white and red lead, and litharge 2,786,639  
Of pig, bar, and sheet lead, and lead pipes 2,855,828  
Of shot 855,238

Average quantity derived from importations of foreign lead

6,497,705

21st Cong. 2d Sess.]

Documents accompanying the President's Message.

Prior to the year 1828, the product of the public mines had not been so considerable as materially to affect the market; but, during that year, the product was suddenly increased to more than twelve millions of pounds; and during the same year, the excess of importations was 8,603,439 pounds, exceeding the average of previous years more than two millions. This, with the product of the public mines, supplied the market with an unexpected excess of fourteen millions pounds, being equal to a supply for two years in advance.

During the year 1829, the public mines yielded fourteen and a half millions pounds, and the importation ceased. There was an excess of exports, in that year, of nearly one and a half millions.

The average annual product of the public mines, during the three last years, is 12,728,366 pounds, being about double the quantity usually received from foreign countries, prior to the year 1829.

The public lead mines in Missouri were offered at public sale in October last, under the act of March 3, 1829.

The section of country in which the mines on the Upper Mississippi are situated, having been ceded to the United States by the treaty of Prairie du Chien, of August, 1829, and the value of these mines having been fully developed, it is believed that the time has arrived for surveying and selling these lead mine lands. It is supposed that the principal object of reserving these lands from sale was to prevent a monopoly of them, while their extent and value were but little known to the public. They have now been so extensively wrought, and are, at present, so well known, that this object has been accomplished; and no reasons can be perceived why a survey and sale of them should be longer deferred.

Independent of the mineral riches of these lands, the climate is represented as remarkably salubrious, and the soil as fruitful, and well adapted to support a dense population; and it may be considered of national importance to encourage the settlement of this remote and exposed frontier. I would, therefore, recommend that measures be taken for causing these lands to be surveyed and sold.

I have the honor to be, sir, your most obedient,

G. BOMFORD, *Br. Col. on Ordnance service.*

Hon. J. H. Eaton, *Secretary of War.*

#### REPORT FROM THE COMMISSARY GENERAL OF SUBSISTENCE.

OFFICE OF THE COM. GEN. OF SUBSISTENCE,  
Washington, 11th November, 1830.

SIR: In compliance with instructions from the Department of War of 7th August ultimo, I have the honor to submit a statement, in duplicate, of the moneys remitted and charged to contractors, and the disbursing officers of the commissariat, in the 1st, 2d, and 3d quarters of the year, amounting to \$233,013 16, and the monies accounted for by them, amounting to \$208,716 64, leaving a balance outstanding of \$24,381 18, from which is to be deducted \$2,808 42, charged to contractors, not as advances, or remittances out of the annual appropriation for 1830, but as the difference between the prices of provisions previously contracted for, and the purchases made by agents of the Department in 1829, to supply deficiencies at several posts, and totally unconnected with the fiscal operations of the present year, leaving \$21,572 76 actually in the hands of the assistant and acting assistant commissaries, at the expiration of the 3d, applicable to, and which will be entirely accounted for in, the 4th quarter of the year.

The sum originally charged to contractors on their failure is, by this statement, \$4,502 31, of which \$1,010 11

has been liquidated; and there is little doubt, from the solidity of the securities in the cases of the \$2,808 42 unsettled, and from the disposition already evinced, that the whole will be promptly paid without resorting to suit.

It affords me great gratification to state, that of the moneys remitted and charged in the period embraced, there has not been one cent lost to government; and of 91 officers disbursing in the commissariat, only three accounts have not been received; and although these are at the most remote posts, they will in all probability reach this office during the present month: it is, however, believed, that if received, the result of the statement would not be materially affected.

Very respectfully, your most obt. servant,

GEO. GIBSON, *C. G. S.*

Hon. J. H. Eaton, *Sec'y of War.*

#### REPORT FROM THE SUPERINTENDENT OF INDIAN AFFAIRS.

DEPARTMENT OF WAR,  
OFFICE OF INDIAN AFFAIRS, Nov. 26, 1830.

SIR: In compliance, in part, with the order of the Department of the 7th August last, I had the honor, on the 22d ultimo, to submit an estimate, in detail, for the current expenses of the Indian Department in the year 1831, amounting to \$160,600.

In further compliance with said order, I now have the honor to submit the statements herewith, marked A and B.

Statement A exhibits the amount remitted for disbursement under each head of appropriation, in the Indian Department, during the three first quarters of the year 1830; the amount for which accounts have been rendered under each head, for the same period; and the balances remaining to be accounted for, according to the books of this office. It will be seen that the whole amount remitted for disbursement within the period mentioned is \$528,734 18; that the whole amount for which accounts have been rendered, is \$401,342 09; and that the amount remaining to be accounted for is \$127,392 09. It will be seen, also, that, of the balances remaining to be accounted for, those alone, under the heads of pay of superintendents and agents, sub-agents, interpreters, and blacksmiths, and annuities, when added together, amount to the sum of 62,914 dollars, and 31 cents; and which, if deducted from the aggregate balance, to wit: \$127,392 09, will leave but \$64,477 78 to be accounted for under all the other heads. A considerable portion of the disbursements for annuities, as well as for other objects, are made by agents stationed at remote posts, and often, owing to the Indians prolonging their absence from their villages on their hunting excursions, at so late a period of the year, that sufficient time has not elapsed for their returns for the 3d quarter to reach the Department. When these are received, the balance, if not wholly accounted for, will be reduced to a very small sum, especially when compared with the whole amount remitted, or with that of the security held by the Government of the officers through whom the disbursements are made.

Statement B exhibits the number of schools in the Indian country, where established, by whom, the number of teachers, the number of scholars, and the amount now allowed a year to each school from the annual appropriation of \$10,000 for the civilization of the Indians. This statement shows an increase in the number of scholars over that embraced in the report from this office for the last year, of 242.

The amount remitted in the three first quarters of the present year, from the appropriation for the civilization of the Indians, for school allowances, is \$6,693, as will be

seen by reference to statement A. The amount of these allowances to the several schools, as arranged to take effect from the 1st of July last, and exhibited by statement B, is \$6,650; which, deducted from the annual appropriation of \$10,000 applicable to this year, will leave a balance, (without taking into view any balance that may remain of former years,) on the 1st of January next, of \$3,350, to be added to the annual appropriation that will then be applicable to 1831, (making, together, \$13,350,) and disposed of, during that year, as the Secretary of War may deem it expedient to direct.

It is believed that the disbursements in the Indian Department for the years 1829 and 1830 have been confined strictly within the appropriations applicable to them, and that no arrearages have or will accrue on account of disbursements made in either of those years. But the arrearages which it was ascertained (and so stated in the report from this office for the last year,) had accrued to a considerable amount in the Indian Department prior to the year 1829; are still pressing on the Department, and it yet remains without any means to meet them. Impressed with the importance of some adequate provision being made for these arrearages, I have made this reference to them here, under a hope that the attention of Congress might again be called, at the ensuing session, to the documents submitted to them on the subject at last, and an act be passed making such appropriations as, from the circumstances of the case, may appear to be proper.

There are some other documents and estimates, which were submitted at the last session of Congress, for appropriations to carry into effect sundry treaty-stipulations for annuities and other objects, for the year 1830; but which, as no appropriations were made, it will be necessary to submit again at the ensuing session, to obtain appropriations both for the year 1830 and 1831. They will, accordingly, be prepared and reported in time to be submitted at an early day in the session.

Our relations with the Indians continue on a friendly footing. Nothing has happened to interrupt them during this year, except it be the acts of hostility which have occasionally been committed against each other by certain tribes bordering on the Mississippi, and which, it was apprehended at one time, were about to assume a character that would seriously disturb the peace of our citizens along that frontier: but, by the timely interference of the Government, peace has been made between the Indians, and our citizens thereby secured, for the present, at least, from the disturbances with which they were threatened by their wars.

The treaties concluded at the conferences ordered to be held by General Clark and Colonel Morgan, with the Indians, for this and other purposes, at Prairie du Chien, have lately been forwarded by General Clark, and are filed in this office. These treaties, with those recently concluded with the Chickasaw and Choctaw nations, under the directions of the President of the United States, towards the execution of the act passed at the last session of Congress, "to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi," are all the treaties that have been made with the Indians since the last session of Congress. They are ready to be laid before the Department when required.

The Commissioners (Gen. E. Root, and James McCall and J. T. Mason, Esquires) appointed in pursuance of a provision contained in the 2d article of the treaty concluded at the *Battle des Morts*, the 11th of August, 1827, to adjust the difficulty between the Menomonee, and Winnebago, and New York Indians, in relation to the boundaries of their lands in the vicinity of Green bay, have been engaged on that duty, and recently made a report, submitting a proposition for the adjustment of

the case, which is subject to the approval of the President of the United States.

By the resolution of the Senate, passed at last session of Congress, conditionally ratifying the supplementary article, concluded the 24th September, 1829, to the treaty with the Delaware Indians of the 3d of October, 1818, certain lines, specified in said resolution, were required to be run and marked. Mr. McCoy, who was employed to make the survey, has been engaged on it, but had not, at the date of the last reports from him, completed it.

The lines of the cessions made by the treaties concluded at Prairie du Chien, with the Chippewa, Ottawa, and Pottawatamie, and Winnebago Indians, on the 29th July and 1st August, 1829, and which were ratified during the last session of Congress, have been run by Mr. Lyon, the surveyor employed for that purpose; and his report, with the field notes and map of the survey, are filed in this office.

A report has also been received from Messrs. J. S. Simonson and Charles Noble, the agents appointed to value the buildings and other improvements belonging to the Carey missionary establishment on the St. Joseph, in Michigan Territory, under a provision made for this purpose by the treaty with the Pottawatamie Indians, of 20th September, 1828. It remains for the report of the agents to be submitted to Congress to obtain the necessary appropriation to pay for the improvements, as stipulated by the 5th article of the treaty just mentioned.

A few remarks in reference to the existing laws relating to Indian affairs, with a view to some change or modification of the provisions of the same will close this report.

The first act providing for Indian annuities, and which is still in force, was passed in 1796. Other acts for the same object have been since passed, from time to time, as they were required by new treaties, which are limited or permanent, according to the treaty stipulations for which they are intended to provide. A part of the provisions of some of them, though not directly repealed, has been superseded by treaties or acts of more recent date; hence it is difficult (except for persons who are familiar with these changes) to distinguish the provisions that are still in force from those that are not. There are now twenty-one acts under which Indian annuities are drawn, and they require as many accounts to be opened and kept on the books of the Treasury. If the same system be continued, every new treaty that stipulates for an annuity will necessarily increase the number of acts for that object, and, of course, the number of accounts. I therefore respectfully submit, whether it be not desirable to change the system, and adopt one which is more simple, and will require less time and labor to execute it. This, I humbly apprehend, may be attained by repealing all the existing acts of appropriation for annuities; and embodying the whole in one act, to be passed annually, on a statement to be laid before Congress at the commencement of every session, showing the annuities due, and to be provided for in the ensuing year. This would keep Congress annually informed of the state of the Indian annuities, and the actual amount required from year to year to pay them. The appropriation might be made in one sum, equal to the whole amount of annuities due for the year to be provided for, or for the specific sums due, for such year, to each nation or tribe. In either case, it would never require more than one account to be opened on the books of the Treasury. With these remarks, I respectfully submit the accompanying statement of all the annuities that will be due and payable in the year 1831, (marked C,) that, if the object (which is explained by the foregoing remarks) be approved, the same may be submitted to Congress, to be acted upon as may be esteemed proper.

The act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, passed in 1802, is the principal one that governs all our relations with the Indian tribes. Since this act was passed, many treaties have been concluded, which, with other causes growing out of the increase of our population, and the consequent extension of our settlements, have contributed to produce changes in our Indian relations, which, it would seem, required corresponding changes in the laws governing them. It is believed that the line defined by the act of 1802 as the Indian boundary, and to which its provisions were intended particularly to apply, has long since ceased to be so. It is, therefore, respectfully submitted whether the public interest does not also require such a modification of the act of 1802 as would better adapt its provisions to the present state of our Indian relations. A judicious modification of this act, and others connected with it, (embracing some specific provision for the adjustment of the claims for depredations, &c. which are provided for by the 4th and 14th sections) would, no doubt, greatly facilitate and open the way for other improvements in the administration of the affairs of the Indian Department, of which the claims for depredations just mentioned form no unimportant or inconsiderable part. It may not be improper to add, that should the foregoing propositions in regard to the laws relating to Indian affairs be deemed worthy of consideration, much useful and more detailed information may be obtained from the report which was made on this subject by Governor Cass and General Clark, and laid before Congress the session before last; for which, see State Papers, 2d session 20th Congress, vol. 3, Doc. No. 117.

All which is respectfully submitted.

SAM'L S. HAMILTON.

To the Hon. JOHN H. EATON, *Secretary of War.*

#### REPORT FROM THE PENSION OFFICE.

*ABSTRACT from the several Agents' Returns, showing the number of Pensioners whose deaths have come to their knowledge, for the year ending on the 4th of Sept. 1830.*

AGENCIES.	Rev. Pensioners.	Invalid Pen's.	REMARKS.
Maine	33	1	
New Hampshire	41	2	
Massachusetts	53	3	
Connecticut	26	2	
Rhode Island	11	2	
Vermont	38	2	
New York	80	13	
New Jersey	8	2	
Pennsylvania	13	3	
Pittsburg Agency	14	3	
Delaware	—	—	
Maryland	9	9	
Virginia	9	3	
North Carolina	14	2	
South Carolina	6	1	
Georgia	2	—	
Kentucky	19	2	
East Tennessee	—	—	
West Tennessee	12	2	
Ohio	—	—	No returns.
Indiana	7	—	
Louisiana	—	—	No returns.
Mississippi	1	—	
Michigan Territory	—	—	No returns.
Illinois	1	—	
Alabama	2	4	
District of Columbia	—	—	No returns.
	399	58	

#### NUMBER of Revolutionary and Invalid Pensioners on the rolls of the different States and Territories, Oct. 20, 1820.

STATES AND TERRITORIES.	Number of Revolutionary officers paid at \$20 per month, 13th March, 1818, &c.	Number of non-commissioned officers, musicians, and privates of the Revolution, paid at \$8 per month. — Act 18th March, 1818, &c.	Number of invalid pensioners at various rates per month.
Maine	16	983	137
New Hampshire	17	710	185
Massachusetts	62	1,399	337
Connecticut	21	694	129
Rhode Island	7	157	13
Vermont	31	924	175
New York	70	2,686	1,029
New Jersey	18	371	55
Pennsylvania	30	703	359
Pittsburg Agency	8	316	91
Delaware	—	14	16
Maryland	3	145	226
Virginia	23	658	212
North Carolina	6	256	67
South Carolina	2	115	22
Georgia	2	76	23
Kentucky	17	461	168
East Tennessee	2	142	48
West Tennessee	3	119	99
Ohio	10	516	160
Indiana	—	130	79
Louisiana	—	9	27
Mississippi	—	16	8
Michigan Territory	1	8	31
Illinois	—	33	29
Alabama	—	33	28
Missouri	1	17	67
District of Columbia	3	31	62
	353	11,722	3,873

#### Number of Revolutionary and Invalid Pensioners added to the rolls since the 19th October, 1829.

Agencies.	Rev. Pensioners.	Invalid Pensioners.
Maine	14	8
New Hampshire	20	10
Massachusetts	23	5
Connecticut	7	3
Rhode Island	4	—
Vermont	20	5
New York	50	29
New Jersey	5	2
Pennsylvania	22	8
Pittsburg Agency	6	5
Delaware	—	1
Maryland	2	1
Virginia	25	4
North Carolina	10	—
South Carolina	6	1
Georgia	3	1
Kentucky	16	16
East Tennessee	7	4
West Tennessee	9	4
Ohio	12	5
Indiana	3	3
Louisiana	—	1
Mississippi	1	—
Michigan Territory	—	6
Illinois	—	1
Alabama	4	—
Missouri	1	10
District of Columbia	3	4
	273	137



## REPORT ON INTERNAL IMPROVEMENT.

HOUSE OF REPRESENTATIVES, FEB. 1831.

Mr. HEMPHILL, from the committee to which was referred that part of the President's Message [of December 7, 1830] relating to Internal Improvements, made the following Report :

That they have bestowed upon it that deliberate consideration to which its high character and importance are justly entitled.

The essential benefits to a nation from good roads and canals, and the improvement of water courses, are so universally acknowledged, that the Committee will not investigate the subject by tedious reasoning. A brief notice will be all that is necessary. Their object is rather to bring into review the laudable ambition and ardent desire, so long manifested by the people, for the enjoyment of these real blessings.

Mr. Fulton, in his letter of the 7th of December, 1807, to the Secretary of the Treasury, to enable him, in part, to prepare his report of the 4th of April, 1808, remarked that, "it is obvious to every one, who will take the trouble to reflect, that, on a road of the best kind, four horses, and sometimes five, are necessary to transport only three tons, but on a canal, one horse will draw twenty-five tons, and thus perform the work of forty horses; the saving being in the value of the horses, the feeding, wagons, and attendance." Rail roads, where they can be adopted, being now considered of similar value to canals, like results will follow from the use of them.

The whole saving, on any given line, must, in a great degree, be conjectural, unless resort is made to a very minute calculation. But any one can perceive, from this simple statement, that a very large proportion of the expenses of transportation would be a certain gain to the consumers, and, indirectly, to the whole community.

A barrel of flour can be shipped from Philadelphia to Liverpool, a distance of three thousand miles, for fifty cents, while, on a turnpike road from Pittsburg to Philadelphia, a tenth of the distance, it would cost five dollars.

A few facts will show the enormous expense of transportation in time of war. In the late war, flour, in some instances, cost the Government nearly one hundred dollars per barrel, and pieces of artillery each near one thousand dollars; and owing to the delay, were useless when they arrived. The first of transportation across the peninsula between the Delaware and Chesapeake bays, a distance of only sixteen miles, amounted in one year to a little less than a half a million of dollars. The saving to the Union by good roads and canals, would be immense, and amount to many millions in a year, besides the wealth gained by the additional quantity of articles from the bowels and surface of the earth, raw and manufactured, which the expedition and cheapness of conveyance to market would inevitably bring into existence.

The internal trade of a country increases with amazing rapidity, and it is considered by the ablest writers on political economy to be the most profitable trade; customers contract acquaintances, and no sea risk is incurred.

We have already seen between two and three thousand sloops, of upwards of fifty tons each, engaged in the North river. In England, there are more than five hundred ships, none under two hundred tons, and many over three, carrying the single article of coal from Newcastle to London. In China, it is said that, in consequence of the cheapness of their conveyances, their home trade is nearly equal to the whole market in Europe.

The commerce of the United States with South America should attract our earnest attention. The independ-

ence of these republics will form an important era in the history of this country. No country can offer to us commercial advantages more rich, or more within our reach, than the Spanish American Republics. Our territories touch.

The ports of Louisiana and Vera Cruz are connected with the same sea. Our access to Mexico will be easy; and, as regards the importance of this country, it is illustrated by the circumstance, that it is the richest and most extensive of all the Spanish American republics. It exceeds in magnitude Spain, France, and Italy united. All the eastern coast of Mexico, the kingdom of Terra Firma and Paraguay, are nearer to us than the ports of Europe, presenting a wide range for the commercial intercourse of the United States. It must be enlightened policy on our part, as soon as possible, to place the country in a condition to compete with the nations of Europe, and to draw a fair proportion of the South American commerce into our own ports, before its rich channels are pre-occupied, in consequence of their superior facilities and cheapness in the principal transactions of their internal trade.

The idea of improving the country with national aid was coeval with the Government. The "Federalist" noticed it among other advantages of the Union.

In No. 14, written by Mr. Madison; the objections made against the Constitution from the extent of country were answered; and, with other reasons, it was said :

"Let it be remembered, in the third place, that the intercourse throughout the Union will be daily facilitated by new improvements. Roads will be every where shortened, and kept in better order; accommodations for travellers will be multiplied and ameliorated; an interior navigation on our eastern side will be opened throughout, or nearly throughout, the whole extent of the thirteen States. The communications between the western and Atlantic districts, and the different parts of each, will be rendered more and more easy by those numerous canals with which the beneficence of nature has intersected our country, and which art finds it so little difficult to connect and complete."

The same distinguished statesman gave a practical construction to those views of the effect of ratifying the Federal Constitution, by submitting to the House of Representatives, in 1796, seven years after it went into operation, a resolution to cause a survey to be made of a road from north to south, through all the Atlantic States, with a view to the foundation of a system for their improvement. That the capacities of the country for improvement are equal to any on the earth, there is no difference of opinion.

Its vast extent, its variety of soil and climate, its mountains and valleys, intersected with streams of every size; its geographical separation into distinct natural parts, each inviting the commercial intercourse of the others, by artificial means—the portion along the shores of the Atlantic, and back to the Alleghany mountains, being one; that on the lakes and St. Lawrence, another; add that watered by the Mississippi and its branches composing the third.

As soon as the funded debt of the Revolution was nearly extinguished, and Louisiana acquired, the improvements of the country were commenced. Mr. Jefferson caused a reconnoissance and survey to be made of a road between the City of Washington and New Orleans.

In 1806, Congress authorized the construction of the Cumberland Road, thereby assuming the principal power for which the real friends of the policy have ever since contended. In 1808, Mr. Gallatin's celebrated report appeared, exhibiting much solid information on the subject; but the attitude of our relations soon after with England and France, and the final declaration of war against England, retarded the execution, while it evinc-

ed, in the strongest manner imaginable, the propriety of this policy. It was seen from actual experience, that the money wasted in consequence of the want of national improvements, would have been sufficient to construct the chief of those of the most prominent character.

After the war, the spirit of internal improvement again revived. It rose up in the South; and on the 16th of December, 1816, on motion of Mr. Calhoun, a committee was appointed to inquire into the expediency of setting apart the bonus and nett annual profits of the National Bank, as a permanent fund for internal improvements. On the 23d of the same month, a bill to this effect was reported.

On the 6th of February following, a motion was made to strike out all the first section after the enacting clause, and insert a bill differently expressed, "for the construction of roads and canals, and improving the navigation of water courses, in order to facilitate, promote, and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions necessary for the common defence;" the fund to be applied to such objects as Congress, with the assent of the States, might direct.

Mr. Calhoun moved to amend the amendment, by striking out the words "*with the assent of the States*," which being lost, the amendment was carried; and, on the 8th of February, 1817, the bill, as amended, passed the House of Representatives. After being agreed to in the Senate, it was sent for the approbation of Mr. Madison, who, on the 3d of March, 1817, rejected it on constitutional grounds.

On the re-consideration, there was still a majority of the representatives of the people in favor of the bill.

This was the last act of Mr. Madison's administration. Mr. Monroe being then Secretary of State, and President elect, probably accorded with his predecessor in the rejection of the bill, as, at the next session, the first of his administration, he gave his concurrent opinion in advance, without waiting to hear the arguments of the new Congress. On the 3d of December, 1817, this part of the message was referred to a committee, and on the 15th of December a report was made, in direct contradiction of the sentiments of the President. The resolution which closed it resting the power in question on *the assent of the States*, it was stricken out, and the House finally resolved, by a majority of 90 to 75, that Congress had power, under the Constitution, to appropriate money for the construction of post roads, military and other roads, and for the improvement of water courses. Motions to amend, by inserting "*with the assent of the States*," were negatived. Thus, it appears that, on the first opportunity, after the opinions of two Presidents were declared, the representatives of the people independently expressed their own sentiments to the country.

"During the same session, two resolutions were adopted—one directed to the Secretary of War, and the other to the Secretary of the Treasury, of nearly the same import, requiring them to report to the next session a plan for the application of such means as are within the power of Congress to the purpose of opening and improving roads, and making canals, together with a statement of the undertakings of that nature, which, as objects of public improvement, may require and deserve the aid of the Government; and, also, a statement of works, of the nature above mentioned, which have been commenced; the progress which has been made in them, the means and prospect of their being completed; the public improvements carried on by States, or by companies or incorporations which have been associated for such purposes, to which it may be deemed expedient to subscribe or afford assistance; the terms and conditions of such associations, and the state of their funds; and such information as, in the opinion of the Secretary, shall be material in relation to the objects of this resolution."

"Ill health prevented the Secretary of the Treasury from acting on the subject; but the Secretary of War, on the 7th of January, 1819, made an interesting report: 'A judicious system (he said) of roads and canals, constructed for the convenience of commerce and the transportation of the mail only, without reference to military operations, is itself among the most efficient means for the more complete defence of the United States. Without adverting to the fact that the roads and canals which such a system would require, are, with a few exceptions, precisely those which would be required for the operations of war, such a system, by consolidating our Union, increasing our wealth and fiscal capacity, would add greatly to our resources in war. It is in a state of war, when a nation is compelled to put all of its resources in men, money, and skill, and devotion to country, into requisition, that its government realizes, in its security, the beneficial effects from a people made prosperous and happy by a wise direction of its resources in peace.'

"But I forbear to pursue this subject, though so interesting, and which, the farther it is pursued, will the more clearly establish the intimate connexion between the defence and safety of the country, and its improvement and prosperity, as I do not conceive that it constitutes the immediate object of this report."

After many appropriations for the repairs of the Cumberland road, and other acts of Congress manifesting their steady pursuit of this subject, a select committee, in 1822, was raised, which, on the 2d of January, brought in a report, accompanied with a bill to procure the necessary surveys, plans, and estimates, to be made, of the routes of such roads and canals as the President might deem of national importance, in a commercial or military point of view, for the transportation of the mail.

In 1823, it was partially acted on, and, on the 30th of April, 1824, it became a law. The object of this bill was to obtain information, and lay a solid foundation for the improvement of the country by the aid and direct action of the General Government.

Mr. Monroe signed the bill; and, in the same session, he approved of the act authorizing a subscription to the stock of the Chesapeake and Delaware Canal Company.

At this period, Mr. Monroe seems to have yielded to the current of public opinion, as far as is necessary for most practical purposes.

The survey bill was considered as the precursor to all future improvements. Its design was to obtain an accurate knowledge of the topography of the country, by the examination of scientific men, under the direction of the President, who were to make plans, &c. of such objects as the President should direct, reserving to Congress to select in succession the routes which they might deem the most urgent, and of the highest national importance, to be first executed.

In virtue of this act, many important parts of the country have been explored, of whose capacities for improvement we were ignorant. The spirit of this act accorded with the practice of France and other countries, where every information of this kind is considered valuable, and collected and deposited in their respective bureaux.

It was not expected that *every survey* made should be acted on immediately; many years, it was known, would pass away, before all could be effected. Still, the information was desirable, and advantageous to the Union, the States, and individual enterprise; it afforded a store of knowledge, at all times accessible, and free of expense.

The proceedings of the engineers produced effects of salutary importance. They were every where welcomed: States were awakened from their lethargy; and, aided by the science of which they were in possession, companies arose, to whom they imparted their valuable as-

istance, and the people became inspired with a desire of enjoying the natural advantages of their country, and, in accordance with this spirit, were acting with increased animation in the promotion of its best interests.

The assistance given by the General Government to the Chesapeake and Delaware Canal, deserves here especial notice. It had been in contemplation for more than half a century. The first attempt failed; the second had to contend with unforeseen embarrassments; and, notwithstanding the boldness and energy of those conducting it, to say the least, it is probable that individual enterprise would have sunk under the many obstacles which were presented, and the work have been abandoned, had not the United States interposed, and aided, by their liberal subscription, for stock in the Company. The value of this noble improvement to the nation, as a link of the Atlantic canal along the sea coast, cannot be too highly appreciated.

The Louisville and Portland canal, and the Dismal Swamp canal, were equally indebted to the countenance and protection of the Federal Government.

President Monroe deemed an avenue over the Alleghany mountains of such national magnitude that the route of the Chesapeake and Ohio Canal was the first which he caused to be surveyed under the act of the 30th of April, 1824. This magnificent undertaking has likewise received the countenance of the United States, by the subscription to its stock of a million of dollars.

Acts passed to improve the navigation of the Ohio river, by removing bars and other impediments; to free the Mississippi from the danger of snags and sawyers, and for the clearing of many other rivers. In accordance with the same spirit, the Cumberland road, without reference to the assent of the State, was continued from Canton, in Ohio, to the Muskingum river, at Zanesville, in that State; and additional provisions were occasionally made for the repairs of this road, and its further extension; a variety of roads in the territories, and for military purposes, had been effected; and at the last session, Congress passed laws to subscribe for stock in the Maysville and Lexington Turnpike Company, by a vote in the House of Representatives of 96 to 87; for stock in the Washington and Frederick Turnpike Company, by a vote of 74 to 39; and for stock in the Louisville and Portland Canal Company, by a vote of 80 to 37.

In the two last cases, there was little if any doubt as to the nationality or expediency of the object; and the principle of the policy alone governed the members. They present the fairest test of the opinion entertained by the representatives of the people, concerning the propriety of subscribing for stock in private companies. Wherein, then, it is most respectfully asked, consists evidence of a change in the public mind on this interesting subject? It may be presumed that the message alludes to those public prints which justified the veto on the Maysville road bill? Is it not a fair answer, that the opinion, thus partially ascertained, was founded on a belief that the road was of a local, and not a national character. Whether it was or was not, is immaterial at the present moment; because it never was pretended, by the friends of internal improvements, that Congress had power over mere local and State objects; and, for this reason, they have always disputed the right to distribute money, generally, among the States, for internal improvements, as the money, in that case, might be expended on local objects, over which Congress had no authority. The act to set apart the bonus and dividends of the Bank of the United States, to be divided among the States according to the ratio of their representation, retained in Congress the control over the objects on which the money was to be expended. This, alone, sustained its constitutionality. Lands have also been granted for the same purpose for specified objects.

The committee are aware of no instance in which Congress can distribute money generally among the States, unless it be in the case of education, which is clearly distinguishable from that of internal improvements.

Congress has established the military academy; it has also agreed with the land purchasers in the new States to allow a certain proportion of the soil in each township for the benefit of schools, without indicating the mode and manner of instruction. Education in every stage is designed to qualify the rising generation for all the ends of citizenship. In the improvement of the mind, whether by common schools or the elevated seminaries of learning, there can be no departure from nationality.

The committee will quote the words of the present Executive, from his message, to show its equal application to the power of the United States over internal improvements.

"The power to impose duties originally belonged to the several States. The right to adjust those duties with a view to the encouragement of domestic branches of industry is so completely incidental to that power, that it is difficult to suppose the existence of the one without the other. The States have delegated their whole authority over imports to the General Government, without limitation or restriction, saving the very inconsiderable reservation relating to the inspection laws. This authority, having thus entirely passed from the States, the right to exercise it for the purpose of protection does not exist in them; and consequently if it be not possessed by the General Government, it must be extinct.

"Our political system would thus present the anomaly of a People stripped of the right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely cannot be the case: this indispensable power, thus surrendered by the States, must be within the scope of the authority on the subject expressly delegated."

To apply the above where the object of any internal improvement embraces two or more States, the committee will observe, that, antecedent to the Union, the States, as separate sovereignties, could have entered into negotiations and treaties to execute any extended line of road or canal; but, after its adoption, they were excluded from forming any compact with each without the consent of Congress. The States, then, have wholly surrendered the power under which alone they could have effected great leading and permanent roads or canals, for their mutual accommodation, and cannot regain it by the mere exercise of their own wills. If the power be not extinct it is wholly within the control of the United States; and must fall within the scope of the authority over the subject expressly delegated to Congress, and be directly incidental to them.

Again: the power to regulate commerce among the States is granted in the same words with that to regulate commerce with foreign nations. In the one case, it is agreed that imports can be cheapened by public works; the same reason will apply to the power to cheapen the transportation of inland trade, that being of importance equal to foreign commerce; and the power must be as necessarily incidental to the express power.

This directly incidental power carries with it the full means of execution and protection, and does not rest on the undefined tenor of continued and uninterrupted usage, which is said to have been employed "at the expense of harmony."

The committee will pursue this subject no farther than to say that, in their opinion, the same constitution which legalizes the removal of brambles for the free passage of the surveyor's chain, gives equal right to construct the contemplated work. That there is no partition of power. If Congress can act at all, it can act with effect; if it can make a road or a canal, it can employ the

accustomed means of the country to keep the work in repair.

In relation to the subject of internal improvements, that there is a line between national and merely State objects, of a sound and practical meaning, is generally admitted; and where this line is, the wisdom of Congress must decide in each case as it arises.

With no pretension of describing the precise line, the committee will suggest that an object of national improvement may be entirely within a State, as a road to a fortification, such as that from New Orleans to Fort St. Philip, in Louisiana; or perhaps a better illustration is supplied by the Delaware and Raritan canal, lying wholly in the State of New Jersey. The object may embrace parts of two States, as a bridge over a river dividing the States; in this instance, Congress could erect the bridge, if necessary for any national purpose. In every case where the improvement is to take a wide range through many States; in instances within a State where an object is considered as a link of an extended line; and in all cases where its end is to connect, by artificial means, the grand geographical divisions of the country; to draw the line, it must be expected, will sometimes give rise to debate, but not more frequently, nor of a more perplexing nature, than will occur in attempting to draw the line of correct legislation on various other subjects.

The tariff to protect American industry is declared by the President constitutional, but does he prescribe the exact limit required for this object? Congress can impose direct taxes, yet, in the exercise of this power, excesses would be real grievances.

But a road or canal, even of a doubtful character as to its nationality, would benefit the country; so it would seem that no federal power can be exercised with less cause of alarm.

In adverting to the message, the committee will not examine it by paragraphs, for fear of committing any error. A particular part of it can be better interpreted in connexion with the whole; they will only make allusion to some of the ideas conveyed by it, concerning which there can be no mistake; leaving the application of their general observations, where they come in collision with any part of it, to the judgment of the House, to be considered as an answer.

The President, after carefully revolving in his mind the whole subject, has formed these opinions—that it is improper and inexpedient to subscribe for stock in private associations; that, unless an entire stop be put to the practice, certain bad consequences will follow; and that the course heretofore pursued to advance the internal improvements of the country, is the worst, perhaps, that could exist.

Among the reasons for these opinions, it is asserted, that, when an improvement is effected by the funds of the Union, the citizens ought to enjoy it without being compelled to pay tolls; that money so raised ought to be subject to the rule of revenue; that discredit might result from the Government's embarking with its constituents in joint stock associations, and that, in certain instances, the control of a portion of the public funds would be delegated to an authority unknown to the Constitution.

To these objections and reasonings the committee reply, in the first place, that, if it is constitutional to subscribe for the stock of private companies, which does not appear to be controverted, none of the agencies thereto appertaining can be alien to the Constitution.

In regard to the idea that the citizens, respecting public improvements, ought to be exempt from tolls or any imposition of that character, this doctrine would apply to the States with the same force as it would to the Federal Union. In the States, however, it is the universal practice to receive tolls from those who use the roads of in-

corporated companies, in which a sovereign State is interested. The traveller gains an equivalent, and is not heard to complain. To say nothing of the consequent ruin of State enterprises, if the citizens should be treated better by any mode of internal improvement, under the auspices of the General Government, than by the laws and institutions of their respective States, their affections might be unwarily weaned from the one and bestowed upon the other. As yet, such favor has not been extended, even to American genius. The inventor of the most valuable discovery has to pay for his patent.

With reference to the rule of revenue, it is provided by the Constitution that all duties, imposts, and excises, shall be uniform throughout the U. States; but the paying of tolls is clearly a tax of no description. A valuable consideration being received, it is no collection of revenue. It is only a profit on the revenue on hand. It is as much a contract as the purchase of public land, in which case the buyer is to pay for the value he receives; and in like manner the scientific inventor has to purchase his patent. Respecting the impropriety of subscribing for stock in private companies, this committee, and former committees, and both Houses of Congress, have deemed that the most eligible and least objectionable mode of effecting many of the improvements of the country. The opinion has been as generally entertained, that the direct agency of the Government should be resorted to only in cases where States or private companies had not sufficient interest or means to induce them to embark in their execution.

The committee cannot discover how any deception could be practised in this mode of expenditure, more than in the direct application of the public money. No circumstance respecting the former can be better concealed. The United States' engineers can give as accurate information in the one case as in the other. In each, the same inducements will exist for additional appropriations, when the first have proved inadequate. Besides, when subscriptions are made, Congress will have the opinion of State Legislatures, and the guarantee of private subscriptions of stock, as to the importance of the undertaking, before they are begun; and in conducting them afterwards, the advantage of the vigilance and zeal of interested and enterprising individuals. In what manner disguise could be practised, the committee are at a lost to conjecture. It must be admitted that unforeseen obstacles will occasionally obstruct the progress of such improvements, and call for additional aid, in defiance of the skill, foresight, and honesty of man. The Chesapeake and Delaware Canal, and the Louisville and Portland Canal, afford instances of uncommon occurrence. In the first, the embankment for a considerable distance, sunk about one hundred feet; and the latter had to be excavated through a solid rock of unusual and unexpected hardness.

In ordinary cases, the construction of roads and canals is reduced to strict rules, and contracts can be formed with reasonable certainty. Throughout the Union, such works are now executed by such contracts; which incorporated companies are as capable of making as the Government, and much more likely to execute with vigor.

The Committee on Roads and Canals, in 1825, after describing what they considered improvements of the first class, proceeded as follows: "The Committee, however, are of opinion, that there is a secondary class of cases, in which the General Government and States can act conjointly by the subscription of stock on the part of the United States in companies incorporated in the respective States for internal improvements."

"The plan proposed, after much reflection, has been deemed the most judicious of any that can be devised. It is a plan of encouragement, and in its operation will

not interfere with objects of the first class. It will excite the States to incorporate companies for such objects as will be sufficiently national to induce Congress to countenance them. It leaves Congress to decide in each case, when presented, upon its own circumstances and merits. The Committee cannot conceive how the General Government can aid in the internal improvements of the country, in most cases, with greater propriety than by subscriptions in companies incorporated by the respective States. Congress will have the opinion of the United States' engineers, who will make the necessary surveys, plans, and estimates; and it will have the opinion of the State in each case, and intelligent stockholders, as to the importance and probable profit of each work; and, finally, Congress will exercise its own judgment on the utility and national character of the work. The prosecution of the works, besides, will be conducted by interested individuals, with less expense and delay than perhaps it could be done by the public."

The plan of subscribing for stock in companies has, also, the advantage of augmenting the expenditures on public works far beyond the sum invested by the General Government. Congress may adopt the principle, that no subscription shall be made to any incorporated company until a certain proportion, say two-thirds, of the estimated expense be subscribed by a State or by individuals. By this plan, ten millions belonging to the United States would cause the expenditure of thirty millions on public undertakings; and, in time, Congress might dispose of their stock, and use the same fund to aid in other works.

The practice of subscribing for stock in private companies by State sovereignties, has long and extensively prevailed; they have joined their constituents in creating banks, and in promoting improvements. Without any disparagement to the General Government, State sovereignties, in this respect, stand on the same footing, and would be equally subject to inconveniences, if such really existed. The States of Pennsylvania, Maryland, and Delaware, subscribed for stock in the Chesapeake and Delaware Canal; Virginia and Maryland subscribed to the stock of the Chesapeake and Ohio Canal; and the practice has been approved by four or five distinct Congresses. To impair a principle so long acted upon, it would seem to the Committee to require a train of abuses and inconveniences plainly to be laid before the people. How can any discredit result from the Government's embarking with its constituents in the great work of national improvements?

It cannot be expected that the General Government would ever associate itself with companies merely with a view of pecuniary speculation; and by the report of the Committee on Roads and Canals in 1825, and the bill accompanying it, a provision was introduced, allowing the State or States creating the companies to purchase, at pleasure, the stock of the United States in such companies.

Congress, it is believed, will never be disposed to act without the co-operation of the States, except in a national work, in which the States or individuals, for want of interest or adequate resources, are unwilling to embark, or, if commenced, are unable to continue and complete. Such cases, in the opinion of the committee, may be considered as of the first national class, and cannot be included under any specific system.

The action of the Government in the first class will require other direct appropriations, to be expended under the agency of the United States, or subscriptions for stock in private companies. In this class, also, it is obvious, and by none denied, that no rule of equal distribution can be adopted. The localities of the country will require that much larger sums should be expended in some parts of the country than in others. As an illustra-

tion of this, the Chesapeake and Delaware canal would absorb the equal distribution to which the State of Delaware would be entitled for perhaps a half century, while this State is far less benefitted by the construction of the canal than many other sections of the Union.

Fair and important considerations may, likewise, induce more than a proportional expenditure of money in certain divisions of the country. For instance: while the erection of public works on the seaboard cheapens importation, and diffuses a general benefit among consumers, whether in the exterior or interior of the country, it must be acknowledged that the expenditures on light-houses, beacons, fortifications, &c. afford an additional advantage to those sections of the nation wherein they are erected, by the circulation of large sums, amounting, in fact, to many millions, among the people of those districts.

The new States do not enjoy corresponding advantages; and any degree of equal benefit, in this respect, cannot be effected, unless more than the representative proportion of the funds of the Union be expended among them. As internal improvements are the only objects of magnitude alike advantageous to the new States and to the Union, it is by acting on these alone that Congress can equalize the public benefits of the country. The new States have no unsettled land to constitute a fund for this purpose, and the net proceeds of the sale of public lands will avail very little towards the execution of their leading roads. The rise and condition of the western States have, in an eminent degree, augmented the power and consequence of the Union. The citizens of these extensive regions have purchased our wild lands, and converted them into useful farms. The intercourse between them and the Atlantic States is daily increasing. For the mutual enjoyment of the internal commerce thence arising good roads and canals are indispensable. It is true, the old States, with few exceptions, have prosecuted their own improvements to a great extent without federal aid; but many of these States possessed funds derived from the sales of public lands, and other sources not attainable in the West. It will be no more than an act of generous and good feeling in the Atlantic States to aid their younger sisters. A passage from the late message of the Governor of Pennsylvania we admire for its public spirit and truly American patriotism. It is as follows:

"Although extensively engaged in the construction of works of internal improvement within her own limits, and at her own individual expense, Pennsylvania has uniformly, with a magnanimity and a spirit of patriotism which does her honor, advocated and maintained the constitutional right of the General Government to aid in the construction of works of internal improvements of a national character, tending to bind, and to connect more closely together, the remote parts of our widely extended territory; to multiply the facilities of communication between the different parts of the Union; to diminish time and distance in the intercourse of its citizens with each other; to beget, by means of such intercourse, feelings of amity, kindness, and friendship, instead of those sectional jealousies, local prejudices, and unkind and uncharitable prepossessions, which a want of free and friendly intercommunication is always seen to produce; and generally to increase the comforts and promote the prosperity and happiness of the people of the United States."

If we descend from this elevation, and confine ourselves to the narrow, parsimonious pursuits of gain, no policy more substantial could be devised. What roads or canals, except cross roads for neighboring purposes, can be made in the west, which will not benefit the States on the Atlantic?

In what direction will they look for their sales and barter? It must certainly be towards the seas and manufacturing districts. All their national highways will be cal-



culated to meet the eastern improvements, namely, those of New York, Pennsylvania, Maryland, Virginia, North and South Carolina, and Georgia. The Cumberland road, the Chesapeake and Ohio canal, the canals of James river, of Roanoke, and others, yet farther to the south, are all designed to conquer the mountains between these two great sections of our common country.

In the secondary class of cases, Congress can appropriate money to national objects with as judicious arrangements among the States as the true interest of the country will demand. They can, as in the bill of 1816, for the gradual increase of the Navy, set apart a fund for the gradual improvement of the country, and appropriate so much per annum to be applied to national undertakings to be completed or towards the discharge of expenses incurred on national objects already executed by the several States. Under such a provision, States which have led the way in improving the face of the country can, in part, be reimbursed for their valuable exertions.

No tribunal can be so competent to regulate these national concerns as Congress; they bring intelligence from the various parts of the nation, and can impart to each other a knowledge of the course of trade, and of the bearings which particular improvements will have on each other, for the good of the whole.

Internal improvements accommodate themselves to all the leading interests of the nation; by their facilities the farmers will be enabled to produce more and sell cheaper; by them foreign imported articles will reach the consumers in the interior at reduced prices. But with none are they more intimately connected than with the manufacturing interest, as they will cause a diminution of the expenses of transportation to and from their factories; and, in time, will enable the proprietors to bear, without injury, a reduction in the tariff. Thus, while the duties on imports supply, in part, the means of internal improvement, those improvements, good roads and navigable canals, to a still greater extent, lessen the cost of those imports to the consumer, and, in enhancing the value of his produce, enlarge his means of comfort and enjoyment.

The opponents to the immediate execution of internal improvements, speak, repeatedly, of *judicious* plans and *systems*, without disclosing their ideas upon any practicable scheme to supplant that which they condemn. The sincerity of their motives is not questioned, although the tendencies of their scruples cause only procrastination, and leave us equally as unenlightened. What *system* have the States adopted to regulate improvements between the different parts of their respective territories, better than that hitherto pursued by the United States?

The wisdom and experience of the legislative bodies constitute the tribunals which govern as the objects are presented.

It has also been urged that the project of national improvements with the funds of the Union creates corrupt passions and excites vicious practices. If the mere allegation of corruption is to check the prosecution of internal improvements, it will interpose a barrier against all public works; for it is equally applicable, whether the improvements are to be completed by the States or by the Federal Government. The human heart will remain unchanged, and the motives of influence can never be eradicated. If a road is to be located for sixty or one hundred miles, the individuals interested in the route will be actuated by the same zeal, and practice the same means of gratifying their wishes, whether the improvement is to be effected by a county, by a State, or by the United States. Whenever a State engages largely in public undertakings, motives of interest can, with equal propriety, be ascribed to the members of the State Legislatures, as to the representatives of the same people in Congress.

The following passage in the President's message early attracted the attention of the committee: That "the expenditures heretofore made for internal improvements amount to upwards of five millions of dollars," and that the estimated expense of works of which surveys have been made, together with that of others projected and partially surveyed, amounts to more than "ninety-six millions of dollars." The committee, apprehending some mistake on this head, directed their chairman to offer a resolution requesting the President to transmit to Congress a statement of the expenditures heretofore made for internal improvements, specifying the several works, and the expenditures of each; also, a statement of the estimated expense of the works of internal improvement for which surveys have been made; together with a like statement of the estimated expense of other works projected and partially surveyed.

In compliance with this request, the President transmitted a report from the Secretaries of War and Treasury, from which it appears that the meaning of the President comprehended objects which the committee, heretofore, *had not included under the head of internal improvements*. Their idea was, that the term internal improvements did not embrace works affording facilities to foreign commerce; that the popular acceptance confined it to roads and canals in the interior of the country, and to the clearing of rivers above tide water.

It appears from the Treasury documents, that the item of "five millions of dollars and upwards," for internal improvements, embraces not only expenditures for roads and canals, but also the expenditures of the Government, *since its commencement*, "in building piers, improving and preserving ports, bays, and harbors, and removing obstructions to the navigation of rivers."

The latter objects, and others of a similar character, made up nearly one half of what is called "expenditures for internal improvements."

In reference to the item of ninety-six millions of dollars and upwards, the communication, in answer to the call of the House, arranges the works into three distinct classes—works commenced by the General Government; works not commenced, for which surveys and estimates have been made; works projected and partially surveyed; the estimates for the last class being conjectural. The first class includes all the works commenced by the General Government, and amounts only to *three millions seven hundred and thirty-two thousand dollars*, embracing altogether about fifty distinct works; forty-three of which are building piers, improving bays and harbors, and removing obstructions to the entrance and navigation of rivers. The other works contained in this class are roads now under construction, all of which, except the Cumberland road, are in the territory of Michigan.

The estimated expense of the second class is near fifty millions. It embraces fifty-four works, of which thirty-seven are for the improvements of harbors, opening the navigation of rivers, and the erection of piers and breakwaters. The other seventeen are surveys and estimates of routes for roads and canals.

With reference to the remaining class, estimated also at about fifty millions, it is made up of all the variety of works embraced in the other two classes. It is conjectural, and founded on no ascertained data.

The works executed or commenced for the benefit of foreign commerce have emanated from the Committee on Commerce.

As to internal improvements proper, the President is authorized by the act of the 30th April, 1824, to cause the necessary surveys and estimates to be made, and most of them have originated from this Executive source. There are but few instances in which Congress would be expected to bear the whole estimated expense. Under the head of the second class, the Chesapeake and Ohio Ca-

nal is put down at an estimate of near twenty-two and a half millions of dollars. The eastern section of this canal, a space of one hundred and eighty-nine miles, between Washington and Cumberland, and more than half the length of the entire canal, computed separately at eight millions and a quarter of this sum, is now in progress under the direction of an incorporated company, with no other aid from Congress than the subscription of a single million of dollars, and with resources, acquired or anticipated, adequate to its completion without further assistance from the General Government.

Under the same head, a canal from Baltimore to the Potomac river is estimated at nearly three millions of dollars; but the project is abandoned: and, in lieu of it, a rail-road is projected, and contemplated to be made with private funds.

When we consider that all the works now in progress on the seaboard, and in the interior, only amount to three millions seven hundred and thirty-two thousand dollars, no fears need be entertained of the caution which Congress will always observe in making appropriations of money.

The committee consider the detailed communication from the President as very important; and lest any erroneous impressions be made concerning it, they have deemed it proper to have it annexed to this report.

As to the "five millions of dollars and upwards," expended on internal improvements, the committee refer to the report of the Secretary of the Treasury, of the 20th December, 1830, in compliance with a resolution of the House of Representatives of the 26th of May, 1830, which is also appended to this report.

On the subject of the Maysville road, the Louisville canal, and the Washington and Frederick turnpike, the committee will barely remark, that the two latter, in their judgment, are clearly of national character. The one connects the seat of Government with the whole Western country, and the other is greatly interesting to nine or ten States. The Maysville road lies in the heart of a fine country, and the travelling on it is continual. It is calculated to facilitate the trade of a rich portion of the Union with Pittsburgh, the lakes, and the towns and villages lying on the Ohio and Mississippi rivers, onwards to New Orleans.

It is represented "that the present state of the road requires about thirty-six hours for the transportation of the mail from Maysville to Lexington, a distance of sixty-five miles, and that, too, on horseback, exposed to every incident of weather. This state of things generally continues about six or seven months during the year, making an average of about thirty hours, or a little over two miles per hour, for the transit of the great western mail; the tardy, and frequently impeded progress of which, the people of the West have long considered a national grievance." A good road, it is believed, would reduce the transit of the mail from Maysville to Lexington, from thirty to six hours, in all seasons of the year; and create a saving in carrying the mail, nearly equal to the interest of the money proposed to be subscribed by the United States.

This is but a limited view of this improvement. It is in a direct line, and designed as a link in the contemplated national road through the States of Ohio, Kentucky, Alabama, and Mississippi, to the great southwestern mart in the State of Louisiana, passing by many towns; traversing States abounding with iron ore, and the various productions of the soil calculated for military defence and internal trade. In a case thus circumstanced, the committee think that the immediate representatives of the people were the appropriate judges. The veto power had been exercised, in cases of expediency, but two or three times in the last forty years. The committee will pass over those recently made, and confine themselves to the principle which the power contains.

The presidential veto, considering the difficulty of obtaining two-thirds, is nearly as absolute here as in England. No cause of alarm is here suggested, as either actually existing, or shortly to arise; still we may fall on evil times, when a vain and ambitious man, armed with his constitutional patronage, would seize on the example afforded by a popular President in days of political calmness. Should the people become familiarized with the exercise of this power, it would lessen respect for themselves and their immediate representatives, and be a virtual change of the spirit of the constitution. It would enable a designing man, with but ordinary address, to ingratiate the favor of the people, even in opposition to their own representatives; and, as soon as the sacred spark of confidence in the capacity of the people for legislation, through their representatives, shall be dimmed or extinguished, then, indeed, fears for the liberties of the country should be seriously entertained. This, of all other powers delegated by the constitution, ought to be most cautiously exercised.

In similar views on this subject, the committee have been preceded in the report to the House of Representatives on President Monroe's message of 1817, which grew out of a difference of opinion between the Legislature and the Executive on the constitutional powers of Congress. Mr. Tucker, of Virginia, as chairman of the committee, made a report, in which the following passage occurs in relation to this contested power:

"Involving, as it is supposed, a great constitutional question on the one hand, and intimately connected on the other with the improvement, the prosperity, the union, and the happiness of the United States, it presents the fairest claims to candid and diligent investigation. Nor is it without additional interest from the division of opinion to which it has heretofore given rise between the Executive and Legislative branches of the Government; a difference which, in the indulgence of the rights of free opinion, will be still found to exist between the sentiments promulgated in the message of the President, and those which will be advanced by your committee in this report; nor do they conceive that the expression in the message of the President, of an opinion unfavorable to the constitutional powers of the General Government, should be permitted to have any influence on the disposition of Congress to legislate on this interesting subject. For, if the constitutional majority of the two Houses should differ with the Executive Department, the opinion of the latter, however respectable, must yield to such an expression of their will. On the other hand, if, from deference to an opinion promulgated in an Executive communication, Congress should refrain from entering upon the consideration of a question involving constitutional doctrine, it might happen that the opinion of the President would prevent the enactment of a law, even though there should be the constitutional majority of two-thirds of both Houses in its favor. Thus, by the introduction of such a practice, the presidential veto would acquire a force unknown to the constitution, and the Legislative body would be shorn of its powers, from a want of confidence in its strength, or from indisposition to exert it. Whilst your committee are perfectly aware that nothing like this is contemplated by the Executive branch of the Government, they presume the House of Representatives will scrupulously avoid a course which may be construed into a dereliction of their privileges."

In reviewing the ground over which we have gone, the committee cannot perceive the "wrongs of the past," or "the evils to be arrested." Who, among those most unfriendly to national improvements, could rejoice in the annihilation of what has been already accomplished? The Cumberland road, admitting its great expense, growing out of want of experience in the construction of such works at the time, has been of inestimable benefit to the

country. Who would wish its advantages destroyed, and the dilapidation of the dwellings and flourishing villages to which it has given rise? Who would desire ignorance of the topography of many important parts of the Union, in preference to the accurate knowledge of which we are now in possession? To whom would it give pleasure to behold the impediments in the Ohio and Mississippi rivers replaced? Would any patriot resist the efforts of the nation in the assistance given to effect a communication over the Alleghany, from the Chesapeake to the Ohio, which General Washington had so much at heart, and to which, in his opening message of 1823, President Monroe invited the attention of Congress? And, lastly, could any citizen desire the Chesapeake and Delaware canal, and the Dismal Swamp canal, to be monumental ruins of the enterprise of their countrymen?

The committee do not propose to meddle with "the discharge of the public debt," as now provided for by existing laws. But, even supposing an interference, should its trivial amount retard the rising prosperity of the country? If we desire to be an example to the other nations of the earth, let us not fold our arms. It is the employment of the mind, and the activity of the body, that bestow true glory on a nation. We can perform no action more beneficial to ourselves and posterity, or afford no precedent of more valuable instruction to others, than to improve the natural advantages of a country which the beneficence of Providence has given us to dwell upon, and which is surpassed by none within the compass of the globe.

When can we expect a more favorable opportunity to pursue this great and good cause on a scale intrinsically worthy of its importance, and of the extensive resources of this powerful nation? If station gives influence to individual opinions, the committee are fortified with those of

the President's two predecessors, who agreed in sentiment that the time had arrived to prosecute national improvements with the funds of the Union. Mr. Monroe used these emphatic words when the public debt was more than double its present amount: "It is of the highest importance that the question should be settled. If the right exists, it ought forthwith to be exercised."

The committee will trouble the House with only a few additional remarks.

A change of public sentiment by the great body of the people is intimated, and made, in part, the foundation of future action. The people, ever watchful of the true interest of the country, embarked early in this cause and persevered in a manner the most remarkable and praiseworthy. Although checked by the vetos of two Presidents, and not cheered heartily by the countenance of any, they never abandoned the pursuit of this important object; and, at the commencement of the present administration, after the severest contest the country had ever witnessed, the representatives of the people, coming fresh from among them, and acquainted with their feelings and wishes, manifested again their unrelaxed zeal in favor of promoting their country's prosperity by national improvements. If there is any change of public opinion, it is important that it should be known. No citizen reveres the voice of this tribunal more than our Chief Magistrate, and none can give more accurate information on the subject than the immediate representatives of the people. The committee, therefore, offer the following resolution:

*Resolved*, That it is expedient that the General Government should continue to prosecute internal improvements by direct appropriations of money, or by subscriptions for stock in companies incorporated in the respective States.

# REPORT OF THE SECRETARY OF THE TREASURY ON THE FINANCES.

TREASURY DEPARTMENT, *December 15, 1830.*

SIR: I have the honor to transmit a report prepared in obedience to the "Act supplementary to the act to establish the Treasury Department."

I have the honor to be, with great respect, your obedient servant,

S. D. INGHAM,  
*Secretary of the Treasury.*

The Hon. the PRESIDENT of the Senate U. S.

## REPORT ON THE FINANCES.

In obedience to the directions of the "Act supplementary to the act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report.

### I. OF THE PUBLIC REVENUE AND EXPENDITURES.

The receipts into the Treasury, from all sources, during the year 1828, were	-	-	-	\$24,763,629 23
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The expenditures for the same year, including payments on account of the public debt, and including \$790,069 40 for awards under the first article of the treaty of Ghent, were	-	-	-	25,459,479 52
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The balance in the Treasury on the 1st of January, 1829, was	-	-	-	\$5,972,435 81
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The receipts from all sources during the year 1829, were	-	-	-	24,827,627 38
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Viz: Customs	-	-	-	\$22,681,965 91
Lands	-	-	-	1,517,175 13
Dividends on bank stock	-	-	-	490,000 00
Incidental receipts	-	-	-	138,486 34

Making, with the balance, an aggregate of	-	-	-	30,800,063 19
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The expenditures for the same year, were	-	-	-	25,044,358 40
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Viz: Civil list, foreign intercourse, and miscellaneous, including \$9,033 38 for awards under the first article of the treaty of Ghent	-	-	-	3,101,514 87
Military service, including fortifications, ordnance, Indian affairs, pensions, arming the militia, and internal improvements	-	-	-	6,250,230 28
Naval service, including the gradual improvement of the Navy	-	-	-	3,308,745 47
Public debt	-	-	-	12,383,867 78

Leaving a balance in the Treasury on the 1st of January, 1830, of	-	-	-	5,755,704 79
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## Report on the Finances.

[21st Cong. 2d Sess.]

The receipts into the Treasury during the first three quarters of the present year,		
are estimated at	-	19,136,018 79
Viz:		
Customs	-	17,268,122 74
Lands	-	1,293,719 27
Bank dividends	-	490,000 00
Miscellaneous	-	84,176 78
The receipts for the fourth quarter are estimated at		5,025,000 00
Making the total estimated receipts of the year	-	24,161,018 79
And, with the balance on the 1st of January, 1830, forming an aggregate of	-	29,916,723 58
The expenditures for the first three quarters of the present year are estimated at		20,780,936 84
Viz:		
Civil list, foreign intercourse, and miscellaneous	-	2,460,872 48
Military service, including fortifications, ordnance, Indian affairs, arming the militia, and internal improvements	-	5,728,976 52
Naval establishment, including the gradual improvement of the navy	-	2,651,457 75
Public debt	-	9,939,630 09
The expenditures for the fourth quarter, including \$1,415,000 on account of the public debt, are estimated, on data furnished by the respective Departments, at		4,316,004 98
Making the total estimated expenditures of the year	-	25,096,941 82
And leaving in the Treasury on the 1st of January, 1831, an estimated balance of	-	4,819,781 76
which, however, includes the funds, estimated at \$1,400,000, heretofore reported by this Department as not effective.		
The appropriations remaining unsatisfied at the close of the year are estimated at \$5,256,566 32; but, of this amount, it is estimated by the proper Departments,		
1. That the sum of \$3,740,552 96, only, will be required for the objects for which they were appropriated;		
2. That the sum of \$1,375,154 77 will not be required, and may, therefore, be considered as an excess of appropriation, and is intended to be applied, without being reappropriated, in aid of the service of the year 1831, as will more fully appear when the estimates of the appropriations for that year are presented;		
3. That the sum of \$140,858 59 will be carried to the surplus fund at the close of the year, either because the objects for which it was appropriated are completed, or because these moneys will not be required for, or will be no longer applicable to them.		
2. OF THE PUBLIC DEBT.		
The total amount of the public debt of the United States, on the 1st of January, 1830, was		\$48,565,406 50
Viz:		
1. Funded debt	-	48,522,869 93
Consisting of—		
Six per cent. stock	-	6,440,556 17
Five per cent. stocks, including the \$7,000,000 subscribed to the Bank of the United States	-	12,792,000 20
Four and a half per cent. stock	-	15,994,064 11
Three per cent. stocks	-	13,296,249 45
2. Unfunded debt	-	42,536 57
Consisting of—		
Registered debt, being claims registered prior to the year 1798, for services and supplies during the Revolutionary war	-	28,921 48
Treasury notes outstanding	-	8,010 00
Mississippi stock outstanding	-	5,605 09
The payments made, and to be made, on account of the public debt, for the year 1830, are estimated at		11,354,630 09
Of this sum there will have been paid for interest	-	1,912,415 27
Making the reduction in the principal	-	9,442,214 82
Viz: Six per cents.	-	6,440,556 17
Five per cents. subscribed to the Bank of the United States	-	3,000,000 00
Registered debt	-	225 65
Treasury notes	-	833 00
Mississippi stock	-	600 00
And leaving the total debt on the 1st of January, 1831	-	39,123,191 68
Viz: Funded debt	-	39,082,461 88
Unfunded debt	-	40,729 80

Of the sum applied to the public debt in the year 1830, \$10,000,000 were the amount of the appropriation for the year, under the second section of the Sinking Fund act of 1817; and the remaining \$1,354,630 09, taken from surplus moneys in the Treasury, were, with the approbation of the President, placed at the disposal of the Commissioners of the Sinking Fund, and applied under the first section of the act of 24th May last.

The five per cent. stock subscribed to the bank being at all times subject to redemption, and the high market price of other stocks not offering any inducement to purchase, the discretionary authority given to the Commissioners of the Sinking Fund, by the second section of the act last referred to, has not been exercised; and, from the large amount of debt that is redeemable in the year 1831, and within the first two days of 1832, it is not probable that it will be necessary to resort to it in the year 1831.

The debt which will remain unpaid on the 1st of January, 1831, will be redeemable as follows:

At the pleasure of the Government,	-	-	-	\$13,296,397 57	of 3 per cents.
And	-	-	-	4,000,000 00	of 5 per cents., subscription to Bank of U. S.
After six months' notice,	-	1,539,336 16	of 4½ per cents.		
After 31st Dec. 1831,	-	5,000,000 00	of 4½ do.		
After 1st January, 1832,	-	5,000,000 00	of 4½ do.		
And	-	999,999 13	of 5 do.		
After 31st Dec. 1832,	-	56,704 77	of 5 do.		
And	-	2,227,363 97	of 4½ do.		
After 31st Dec. 1833,	-	2,227,363 98	of 4½ do.		
After 1st January, 1835,	-	4,735,296 30	of 5 do.		

As the means for the redemption of those portions of the public debt which are redeemable at the commencement of any year are to be provided at the close of the previous year, and are actually drawn from the Treasury at that time, such stocks may be considered, for the purposes of this report, as redeemable in the previous year.

### 3. OF THE ESTIMATES OF THE PUBLIC REVENUE, AND EXPENDITURES FOR THE YEAR 1831.

The amount of imports into the United States for the year ending on the 30th of September, 1830, is estimated at \$68,500,000, and the amount of exports at \$73,800,000; of which \$59,400,000 were domestic, and \$14,400,000 foreign products.

The amount of custom-house bonds in suit, on the 30th September last, was \$6,865,420; which sum includes all that remain in suit since the establishment of the Government, and exceeds, by \$273,706, the amount in suit on the corresponding day of the last year.

The amount of duties on imports and tonnage, which accrued in the first three quarters of the year 1830, is estimated at \$20,570,000, and in the fourth quarter at \$5,610,000.

The amount of debentures issued during the first three quarters of the year 1830 is estimated at \$3,331,895; and the amount outstanding on the 30th September last, and chargeable upon the year 1831, at \$1,411,801.

It is estimated that the accruing duty on coffee and cocoa imported in 1830, and remaining in store on the 1st of January, 1831, will be reduced about \$500,000, by the operation of the acts of the last session, reducing the duties on those articles; and that the duties on coffee, cocoa, salt, and molasses, accruing in 1831, and payable within that year, will, upon a like consumption to that of 1829, be further diminished by those acts about \$600,000. The repeal of the duties on tonnage, which will take effect on the 1st of April next, will further reduce the revenue of the next year about \$75,000. The subsequent reduction of the duties on tea, coffee, and salt, on the 1st of January, 1832, will probably lessen the usual importation of those articles for the demand of 1831. But the influence of

these circumstances upon the revenue will be, in some degree, counteracted by the increased capacity of the country for consumption, as evinced by the enlarged amount of domestic exports, the general prosperity of mercantile business, and the favorable state of exchange with foreign countries; to which may be added the opening of the trade with the British colonies in the West Indies, and on the North American continent.

The revenue arising from the sales of public lands will be improved by the same general causes which tend to improve that from the customs.

From a view of all those facts and considerations, the receipts for the year 1831 are estimated at \$23,340,000, viz:

Customs,	-	-	-	\$21,000,000 00
Lands,	-	-	-	1,700,000 00
Bank dividends,	-	-	-	490,000 00
Incidental receipts, including arrears of internal duties, direct tax, and canal tolls,	-	-	-	150,000 00
				<u>\$23,340,000 00</u>

The expenditures for 1831 are estimated at \$23,228,065 86, viz:

Civil list, foreign intercourse, and miscellaneous,	-	-	-	\$2,585,152 68
Military service, including fortifications, ordnance, Indian affairs, pensions, arming the militia, and internal improvement,	-	-	-	6,789,317 89
Naval service, including the gradual improvement of the navy,	-	-	-	3,853,595 29
Public debt,	-	-	-	10,000,000 00
				<u>\$23,228,065 86</u>

In the estimate of expenditures for 1831, are included \$1,375,154 77 of the appropriations for 1830, which were not required for the service of that year; and are applicable for the service of 1831, without being re-appropriated, viz. civil, foreign intercourse, and miscellaneous, \$40,833 18; military, \$815,921 10; and naval, \$518,400 49.

In respect to the duties on imports and tonnage, the estimate above presented will not apply for the succeeding year; for, when the reduction made at the last session shall have gone into full effect, the revenue will, according to the average of the last four years, viz. from 1826 to 1829, inclusive, be diminished \$3,664,435.

The proceeds of the sales of public lands will probably be somewhat increased; but the amount of these sales will be limited by the ability of those who purchase lands for their own cultivation, adventurous speculation having ceased with the credit system. This source of revenue, therefore, except so far as it may be affected by future legislation, may be relied upon hereafter to sustain the estimate made for 1831.

The reduction in the receipts from the customs will be partially made up by an increased importation of the articles on which the duties have been reduced, at least so far as the consumption of them may have been hitherto restrained by the amount of the duty; but the reduction in the rates of duty is so great, that no increase in the consumption can be looked for so extensive as to make up any considerable portion of the deficiency; and, although the income and expenditure of the community may continue to bear the same relation to each other as heretofore, the amount of the duty saved to the consumer, instead of being applied wholly to the purchase of an increased quantity of those articles, will be distributed upon all the articles of consumption, domestic and foreign, dutiable and free.

In looking forward to the probable changes in the fiscal operations of the Government, when the public debt shall be completely extinguished, it is worthy of observation, that, with the exception of a single year, (1828,) there



has been a gradual reduction of imports since the year 1825, and a continued reduction in the exports of foreign merchandise during the same period. These facts suggest various considerations, to be taken into view in estimating the future revenues of the Government; they also show, among other matters worthy of notice, that the navigating interest employed in foreign commerce, and particularly in the carrying trade, must have suffered a material depression. That portion of the carrying trade which is unfettered by navigation laws will necessarily fall into the hands of those who can navigate cheapest; and this falling off gives reason to apprehend that the superiority, heretofore claimed for American skill and economy in this pursuit, is yielding to more fortunate rivalry, and suggests the expediency of considering how far that interest may, without injury to others, be relieved from its depression.

The annexed paper, marked M, exhibits a detailed statement of the quantity and value of imports and exports liable to specific duties, and the value of those paying ad valorem duties, and of those free of duty, from the year 1821 to 1829 inclusive; and will furnish the means of ascertaining the increase or decrease of each branch of import and export trade, and the probable effect of any proposed change, as well upon the revenue as upon the various interests with which they are connected.

Should it be contemplated by Congress to make any further reduction of the revenues preparatory to the period of the final extinguishment of the public debt, it is respectfully suggested, that, in order to avoid impairing the necessary means for the ordinary expenditures of the Government, or encroaching upon the sinking fund, it will be proper that such reduction should take effect at a period sufficiently remote for the payment of the entire debt, as the reduction made at the last session will barely leave sufficient revenue for those objects during the ensuing four years. But there are some articles on which the duty may be reduced without injury to the revenue, and with advantage to other interests. The most striking example of this nature will be found in the duty laid on spices. If the imports and exports of these articles, known to be extensively consumed, but not produced, in the United States, be compared, it will be seen that, during the seven years preceding 1828, the nominal exports have exceeded in value the nominal imports by the sum of \$168,155. Whether the consumption has been supplied by fraudulent importations, or whether debentures have been paid on fraudulent exportations, the fact is conclusive evidence that nothing can be lost by imposing a lower duty on those articles. The comparison for the last two years exhibits a more favorable result; but the difference is still much less than the actual consumption; and where such extensive frauds have been so successfully practised, it is scarcely to be hoped that any degree of vigilance sufficient to prevent them can be permanently maintained under the same temptation.

The attention of Congress is respectfully invited to the operation of a clause of the 3d section of the act, entitled "An act for the more effectual collection of the duties on imports," passed 28th May, 1830. The rule therein prescribed for appraising certain goods in packages, by adopting the value of the best article in each package as an average for the whole, went into effect on the 1st of October last. The notice was too short to allow of new orders being given in all cases; and some embarrassment has arisen in the appraisement of such articles as had, for the convenience of trade, and without any intent to defraud the revenue, been usually put up in mixed packages. In anticipation of this difficulty, directions were given to the Collectors to ascertain, until the 1st of January next, the difference, in each case, between the amount of duty imposed according to this mode, and that which would have accrued according to the customary mode; but, as the bonds have been taken for the duties on the

average value, some legislative provision will be necessary to afford the proper relief. It may also be expedient to except some articles from the operation of the clause before referred to. Laces, in particular, are represented to be almost necessarily imported of different qualities in the same package; and some permanent inconvenience will be incurred to the trade in these articles, if the importer is obliged to have them assorted. It is also desirable that the character of the package for each description of goods required to be appraised upon the average of the best article, should be defined by law. The Department has endeavored to obviate some of the inconveniences arising from the change, and at the same time to secure the objects of the act, by allowing the parcels of such goods, which were put up separately, and designated as packages on the invoice, though enclosed in one general package, to be regarded as packages for appraisement within the meaning of the law. But the constant efforts to abuse this regulation on the part of some of those for whose benefit it was adopted, and the intrinsic difficulty of fixing, without specific legislation, any positive limit to the extent of the parcel to be deemed a package, will probably render it necessary, should no alteration of the law be made, to rescind the order, and to recognise no other package than the entire quantity put up in one exterior box or envelope. The general operation of the clause is found, however, to be beneficial: it facilitates despatch and uniformity in the appraisement of goods, as well as prevents frauds on the revenue; and, with the aid of the modifications suggested, mercantile ingenuity will, no doubt, find means, by conforming the packages to the objects of the law, to avoid its inconveniences.

Efforts have been made to give greater efficiency to the revenue cutter service; but it has become manifest that the compensation allowed by law to the officers is inadequate. The office of third lieutenant may, without injury to the service, be abolished; and, if an equivalent of the compensation now allowed to that officer, were divided between the other officers, and some addition made to the compensation of the warrant officers, to whom important trusts are confided, the service would be essentially improved, with but little increase of expense.

The regulations adopted for carrying into more complete effect the laws in relation to the revenue arising from customs, will be hereafter communicated, in obedience to the directions of the 10th section of the act in alteration of the several acts imposing duties on imports, passed 19th May, 1828. There is reason to believe that material benefit has already been derived from them, and that the measures adopted will improve in their effect with the increased experience of the officers.

The reduction of the duty on salt, made at the last session, which will take place on the 1st of January, 1831, and 1st January, 1832, respectively, would seem to render it proper to make a corresponding reduction in the drawback allowed on the exportation of pickled fish, which is fixed by the act of 29th July, 1813, at twenty cents per barrel, that being at the time the duty charged on one bushel of salt. Unless the law allowing the drawback shall be previously modified, the exporter will begin to receive, after the 1st of January next, a greater amount of drawback than the duty previously paid on the salt.

It is of great importance, as well to the revenue as to all the interests involved in the importation of foreign merchandise, that the action of the custom-houses should secure, as nearly as possible, a uniform payment of duty upon the proper value of imports, as contemplated by law; but there are insuperable difficulties opposed to the accomplishment of this object, under the present system of impost duties, to which the Secretary of the Treasury would respectfully invite the serious attention of Congress.

The valuation on which the ad valorem duties are now laid, is ascertained from the true or current value of the

goods in the market of the foreign country in which they were manufactured or produced, with the addition of certain charges, and ten or twenty per cent., as the case may be, when imported from this or the other side of the Cape of Good Hope. The aggregate of these items on which the duties are laid is presumed to be the value of the goods when offered for sale in the United States market; but such is rarely the fact. It is not possible for the officers, even at any one custom-house, to ascertain the current value in the foreign market with such precision as will render it an item of uniform ratio to that of the current value in the United States; and, whatever approach might be made to this point by one set of officers, aided by long experience and superior skill, it is not to be expected that the officers of nearly one hundred separate custom-house establishments can be so well informed of the value of goods at all the places of exportation, or so equally qualified by ability and disposition for the performance of this difficult duty, as to secure any reasonable degree of uniformity in the imposition of the customs at all the places of importation. These difficulties, added to the general repugnance of the officers to be drawn into collision with the importers, will always render the invoice prices of merchandise the chief standard of current value in the foreign market; and corrections will only be made in cases of palpable error. This defective operation is the highest perfection which the present system appears to be capable of; but there are other important objections to it, which are worthy of great consideration. All impost duties are intended to be paid by the consumer. The present plan frequently obliges the importer to pay them, and probably as often compels the consumer to pay more than the proper charge upon his consumption. When goods are bought at high prices in the foreign market, and brought into a depressed market at home, the duty may greatly exceed the advance which the importer is able to sell for; in which event, a part or the whole of it falls on the importer: but if the goods are bought at prices below the usual current value, and brought into a market where the demand is brisk, the consumer pays not only the duty, but nearly as great a price for the goods as if the duty were laid on their true value at the place of importation. In the first case, the operation may prove ruinous to the importer; and, in the last, he receives in his profits a portion of what ought to accrue to the Government. By these operations, manifest injury is often done either to the Government, the consumer, or the importer; the uncertainty and hazard of commercial enterprise are increased; and, whatever failures ensue, the Government will generally incur a considerable portion of the loss.

As long as the current value, or rather the invoice price of goods in the foreign market, is made the basis on which duties are laid, peculiar advantages will be given to those who have the best opportunities of purchasing or making up invoices at rates below the current value. The purchaser who lays in his goods low not only derives a profit directly from this circumstance, but from the difference in the amount of duty paid on them at the custom-house. For instance, a difference of ten per cent. in the cost of an article paying a duty of fifty per cent. gives an advantage of fifteen per cent. to an importer who can purchase his goods at ten per cent. lower than another. This advantage is greatly increased under the operation of the classification of woollen cloths. These are now necessarily imported at prices near the minimum points; and those who can manage, either by making better purchases, or by disguising the current value in the invoice, to introduce cloths under a class of duty below that to which they belong, derive a much greater advantage than above stated. The cloths so transferred on the scale of duties may pay in one case forty-five cents per yard, instead of one dollar twelve and a half cents; and such importers may monopolise the supply of an extensive part of

the market for that article, to the entire exclusion of those who have less favorable opportunities for purchasing, or will not resort to unfair means in preparing their invoices. The necessary effect of the system is, therefore, to throw an extensive branch of the importing business into the hands of foreign merchants, who can always lay in their goods on better terms than American houses having no connexion abroad, and into the hands of those who, whether foreign or American, are the least scrupulous of the means of gain. Under ordinary circumstances, the advantage which the American merchant has in selling is equivalent to that which the foreigner has in purchasing; but he cannot also compete with a different rate of duty. Such a system, therefore, must either corrupt the American merchant, or expel him from all those branches of business in which these operations can be carried on with success. It is believed that an effectual remedy for this serious and growing evil, is to adopt the current value of all goods (subject to ad valorem duty) in the United States as the true dutiable value—disregarding, of course, the cost in the foreign market, and excluding all charges and additions. Such a change, though important in its consequences, will not vary the principle on which impost duties are now presumed to be laid, and is in conformity with that which has long been practised in the most commercial nation of Europe. According to this plan, instead of resorting to vague and arbitrary rules to ascertain the value of goods in the United States, this object may be attained by direct means. Ordinary experience, skill, and attention on the part of the proper officers, will enable them to determine, with all necessary accuracy, the current value in their own vicinity; and the mass of information which might readily be collected to correct error, if any should be made by them, could not fail to secure a just and equal appraisement. This being accomplished, the Government will receive the whole duty paid by the consumer, and no more; the price of goods will be more steady; merchants will be exposed to less hazard; and the opportunity of fair competition between the American and foreign merchant, so far as it can be effected by the action of the Government, will be restored to that equality which a liberal policy cannot deny to foreigners, and which a wise Government will always desire to secure to its own citizens.

An additional reason for the proposed change may be found in the difference between the relative values of gold and silver, as established by different nations, and the liability to error in estimating by law the value of foreign moneys of account in those of the United States. This may be illustrated by referring to the money relations of the United States with Great Britain and with Portugal. The English pound sterling is fixed by law at four dollars and forty-four cents, United States money, while it is worth about four dollars and eighty cents; hence, the importer of goods invoiced in sterling money pays a duty on seven and a half per cent. less than they have actually cost. The millrea of Portugal is established by law at one hundred and twenty-four cents: its actual value in United States money is  $111\frac{224}{1000}$  cents, consequently, the importer of goods from Portugal pays duty on about eleven and a half per cent. more than their actual cost; which makes the difference between the valuation on which duties are imposed at the custom-house, on goods imported from England and Portugal, about nineteen per cent. in favor of the importations from the former. These discrepancies, as well as all those which arise from the occasional introduction of paper and other currencies in foreign countries, whose proportional value to gold or silver cannot be accurately ascertained, will be avoided by adopting the value of the goods in the United States market as the basis for charging duties. This effect of the monetary system should of course be taken into consideration in fixing the amount of duty in conformity with the proposed change.

It cannot be doubted that a rate of duty imposed in this form somewhat lower than the present, exclusive of the allowance for the difference in the money, would not only produce more revenue, but give more stable and substantial security to the interests of manufactures and commerce.

The only objections to this change which appear to have weight, are, first, the difficulty of making so minute an appraisement as would be necessary of all the articles of importation, without a considerable increase of custom-house officers; and, secondly, of making the appraisement uniform at all the ports. The first may, it is believed, be obviated by arranging the goods into classes according to value, in such manner as to render the appraisement not more laborious than at present. These being so adjusted as not materially to vary the rate of duty between contiguous classes, and yet sufficiently distinct to enable the appraisers to assign each article, with reasonable accuracy, to its proper class, aided by an invoice of the goods at their value in the United States, to be furnished on oath by the importer, would secure all the facilities desired for expedition and accuracy in the appraisement, with but little addition to the number of officers or the expenses of the custom-house. The second objection applies to the present system with more force than to that proposed; but this difficulty may be removed by establishing a regular intercommunication and transmission of prices current and samples between the custom-houses, which could not fail to prevent abuses, and secure a more uniform appraisement than when the valuation is based on prices in the foreign market, inasmuch as it will be easier to ascertain the current prices at the principal marts of commerce in the United States than in those of foreign countries.

In recommending these important modifications in the import system, as well as those suggested in the last annual report, it may be proper to remark, that it is deemed by the Department very undesirable to make frequent changes in measures of public policy which affect so extensively individual as well as public interests, and that proceedings of this nature should be subjected to a careful scrutiny, and ample time given by way of notice to all who may be affected by them, as well foreigners as citizens of the United States, before they are carried into effect. But, notwithstanding this indisposition to change, it is proper to remark that much of the legislation upon this subject, since the act of 2d March, 1799, has been adopted chiefly with a view to promote particular objects of special interest pressing upon the Government at the moment of its action; and hence some necessary precautions for guarding the revenue, and avoiding the injuries liable to be inflicted by the changes upon those engaged in commerce and other pursuits, seem to have been overlooked. The approaching crisis in the fiscal policy of the United States will require a revision of an important part of the system; and the opportunity will be propitious for a general review of its defects. The proposed modifications are, therefore, now presented to the consideration of Congress. To afford time for mature deliberation, and for collecting all the information that may be necessary, if their adoption should be determined on, to reconcile individual interests with those of the Government.

All which is respectfully submitted.

S. D. INGHAM,  
*Secretary of the Treasury.*

TREASURY DEPARTMENT,  
December 15, 1830.

#### UNITED STATES' MILITARY ACADEMY.

West Point, June 24, 1830.

SIR: The Board of Visitors to the Military Academy of West Point, having completed their examinations, I herewith transmit their general report, upon the various sub-

jects to which their attention was called; together with the sub-reports of the committees, upon which the general report was founded.

I have the honor to be, &c.

MONTFORT STOKES, of N. C.

*President of the Board.*

The Hon. JOHN H. EATON, *Secretary of War.*

#### UNITED STATES' MILITARY ACADEMY,

West Point, June, 1830.

Honored by an invitation to visit the United States' Military Academy at West Point, we have continued some weeks industriously occupied in the arduous, important, and delightful task assigned to our care. You requested us to be full and free in our investigation of every department; we have literally obeyed that injunction, and now come respectfully to present the result of our labors, not in a strain of formal applause, but in candidly discussing, on their separate merits, a few of the leading topics which have presented themselves.

Whoever has closely viewed this noble institution, must feel a pride in its existence and prosperity; and we trust it is reserved for your hands, by a few judicious alterations, to model into perfection this cradle of future warriors and statesmen.

The true value of any institution can be appreciated, only by comparing it with the results which it was intended to produce; we consider, then, that this academy is expected to furnish to the army a supply of efficient officers; to the militia, an intermixture of well trained citizens, qualified on emergency to discipline that last and best arm of republics; to internal improvement, a corps of engineers, capable of giving wholesome direction to the spirit of enterprise which pervades our country. It ought to furnish science for exploring the hidden treasures of our mountains, and ameliorating the agriculture of our valleys; nor is it upon inert matter alone that it ought to extend a vivifying influence. Inheriting from our varied ancestry the discordant characteristics of every people on the globe, it yet remains to form a specific and all-pervading character for the American nation; nor do we conceive any surer method of stamping upon the yet glowing wax a more majestic form, than by sending into every district young men, emphatically the children of our country, trained to the manly exercise of arms, and imbued with the tastes of science and literature; instructed in the principles and action of our political system, and the living exemplar from which sound education may rear the social edifice.

These preliminaries being adjusted in the vestibule, permit us to conduct you into the interior of the Academy, where we have attended the examinations with assiduous diligence.

It would stretch this report to inordinate length, were we to detail the multifarious points examined: they can be found on the programme of the professors. Suffice it to say that, on all branches, the answers were ready, thorough, evinced a fundamental understanding of the subject, and proved that the judgment of the pupils had been cultivated, rather than their memory superficially extended.

The art of war is, and ought to be, the grand object of attention. It naturally divides itself into three branches—engineering, artillery, and tactics. The theory of each is explained on mathematical principles, whether for attack or defence, in works or in the field. The construction of permanent or temporary fortifications; entrenchments, with their various uses and positions; movements and manœuvres; the effects and manufacture of various projectiles; in short, every thing that could impress the principles, or illustrate the practice of war, was minutely insisted on. Objections were raised, difficulties were proposed, searching questions were asked; on each and every point, the answers evinced the subjects to be well understood.

The Board, however, without pretending to the knowledge of military men, would suggest whether the great and almost exclusive attention devoted to military engineering and the science of fortification, does not retrench what is due to the "art militaire" in its most comprehensive sense: that is, to grand tactics, and what may be termed the strategy of war. A competent course of instruction in this department we conceive would require an additional text book, and a regular course of lectures on the art of war; embracing for illustration descriptions of remarkable battles, showing how they were fought, what excellence of generalship or stroke of genius won, or what errors lost them. Admirably situated, also, as the school is, with regard to its topographical advantages and adaptation to the purpose, it would be highly useful in perfecting the military education of the cadets, if they were occasionally taken into the field, and trained in the practical application of the science of engineering and topography, in which they are so well instructed in theory.

An astonishing proficiency in drawing proves that no ordinary praise is due to that department. But its character is entirely civil, and confined to the imitation of pictures and models. Is it not essential that military surveyors should be accustomed to sketch nature readily and accurately from the surrounding mountains?

Civil engineering has been also well taught, and we listened with much pleasure to a discussion on the properties and analysis of various materials; with all the details of arches, bridges, canals, locks, inclined planes, roads, tunnels, railways, embankments, harbors, &c. We predict that pupils of West Point will deliver the country from that quack engineering which has, in divers instances, inflicted deep wounds upon our system of internal improvement. Architecture receives due attention: Grecian and Roman models have been procured, and our country may be embellished by the taste of the cadets, provided they abstain from imitating the buildings in which they are taught that science.

We have made a patient and minute inquiry into the police, discipline, and fiscal concerns of the Military Academy at West Point. Considering it to be of the utmost importance to the welfare and stability of this valuable institution, that its management, in these respects, should exhibit fidelity and sound judgment; and various circumstances having conspired to render it desirable at the present time, that the Department of War, and the public generally, should be fully satisfied whether or not this is the case, we have felt called upon to devote our best attention to this branch of investigation. We feel much pleasure in acknowledging that every facility has been given to us by the superintendent. Books and documents have been freely thrown open to our inspection, and every individual concerned has fully and readily answered our interrogatories.

For the sake of precision, our observations will be arranged under the three specific heads: Police, Discipline, and Fiscal Concerns.

1st. *Police.*—We visited every part of the institution that properly comes under this head. In the tailors' and shoemakers' shops, we examined the style of making the various articles of clothing provided for the cadets. We also visited the shop of the store-keeper, and are satisfied that these establishments are placed under regulations well adapted to secure the cadets from all impositions, and, at the same time, to restrain them from any needless extravagance. The mess hall and the kitchen were visited several times during meals, and while the food was under preparation: the bill of fare and the other regulations were examined. We were of opinion, that all the details of the establishment are so arranged as to secure a cleanly, wholesome, and abundant supply of food; and that the duties of the steward are performed in a most exemplary and faithful manner. We are no advocates of the Spartan

black broth; yet it seems a question, whether youths ought to be accustomed to a fare more generous than they will probably find on returning to the parental household. In the house assigned for the hospital service, the rooms and the apothecary's shop were found in perfect order, and under excellent regulation. The building, however, was esteemed to be inadequate to the accommodation of the post; we were, therefore, much gratified in visiting the new hospital, for which an appropriation was recently made by Congress, and which is now almost ready for occupation. It contains sufficient accommodation for the sick, together with houses for the surgeon and his assistant, under the same roof. With the neatness and solidity of the building, the convenience of its internal arrangement, and the beauty of its location, we were greatly pleased. While pursuing our inquiries in this department, we learned, that although the cadets are not liable to violent and fatal diseases, yet their general health does not appear to be as good as would be expected from the salubrity of the place in which they live, and the attention paid to their food, cleanliness, &c. A very great amount of medicines, such as are administered in a torpid state of the digestive organs, and in other diseases incident to persons of sedentary and studious habits, is used at this post. The proportion is believed to be much greater than that required for any other military station belonging to the United States. We esteem this to arise from a want of sufficient bodily exercise, and that it exists principally during the winter season, and in the spring. In summer and autumn, the daily drills and other excitements to bodily exercise are sufficient for the purpose of health, and the beneficial result is very obvious: but for nearly half the year, the military exercises are suspended, and the severe winter climate, in some measure, precludes those of a voluntary nature. The young men are consequently obliged to pass at once from an active state to habits sedentary and studious in no common degree, and the evils just intimated must follow of course. In order to alleviate, or entirely remove them, we are convinced that a building should be erected adapted to winter drills and gymnastic exercises; and that they should be regularly required.

The sutler's establishment fell under particular examination. Although it is to be regretted that there is one at this station, yet we are fully convinced that its strict regulation prevents any injury resulting from it to the cadets; and that the soldiers and laborers, for whom alone it is wanted, are much less exposed to evil than if they were tempted, for want of such a place, to encourage the secret introduction of spirituous liquors, and the establishment of shops for selling in the neighborhood, which would be under no control. We are glad to learn, that, through the instrumentality of a temperance society, recently formed among the soldiers, and by other measures prudently adopted, the consumption of spirituous liquors has manifestly decreased.

The hotel, the erection of which was authorized by the Department of War, has been occupied for a year past, and it is at once an ornament to the Point, and a great accommodation to the numerous visitors who resort to it. For many years the want of such an establishment has been seriously felt by the inhabitants of the Point, and by the many persons who were constantly landing there from motives of curiosity, or to visit cadets—their friends or relatives. Upon the farm, purchased some time since by the United States, there was, indeed, a tavern, but it was useless, being altogether out of the way of persons arriving at the station, and its purchase was rendered expedient, because it was sufficiently near the barracks to entice the cadets to resort to it. The present hotel is placed in the best possible position for the accommodation of visitors, and it is under such judicious regulations, that no inconvenience can be reasonably apprehended from it.

2d. *Discipline.*—We at first experienced some little he-

sitation at entering minutely into this part of our investigation, lest it might bear the appearance of an unwarranted distrust of the superintendent and the academic staff; but, considering the Department of War and the country at large have a right to full and explicit information upon this, as upon every other point connected with the management of the Academy, and that the Board of Visitors are sent here for the purpose of obtaining and communicating this information, we esteemed ourselves under obligation to proceed. We regard it as no more than justice to the superintendent to say, that, so far from having any unwillingness to being interrogated upon this head, he solicited, in the most frank and honorable manner, a full and minute inquiry. He made a lucid statement of the principles upon which every part of the discipline of the academy is conducted, and also exhibited the books and registers in which all the proceedings relating to it are preserved. These we examined, and asked and received full information upon every point which required elucidation. The deliberate judgment at which we have arrived is, that no discipline could be established upon sounder principles, nor administered with greater kindness, discrimination, justice, and decision, than that of the Military Academy at West Point. Certain rules for conferring approbation or administering reproof are laid down, well known, and understood by the corps of cadets. It is believed to be impossible that any one of them should fall under censure without having had previous and ample warning. Whether or not the custom of instituting courts martial to try the cadets for certain offences, should be continued, or, whether it would not be better to give this authority entirely to the academic staff, we are not prepared to express a sentiment. We have no hesitation, however, in giving the decided opinion, that sentences passed, after a full and impartial investigation, should be sustained; and, that a case must be extreme, indeed, to warrant its being suspended or reversed. We are satisfied that such occurrences have a tendency to weaken discipline, and bring wholesome authority into contempt, and that if frequently repeated they would produce effects the most injurious to the true interests of the Academy.

There is in successful operation a very thorough system of classifying the cadets, and registering their relative standing, both as it respects general deportment and proficiency in the various studies. This information is transmitted to the Department of War, in the former case, every month, and, in the latter case, every week. By this effective and judicious system, the public authorities are almost as fully and minutely informed of the relative merits of the cadets, and of the general condition of the national school, as they could be were it established at the seat of Government. The only suggestion which the committee has to offer, under this head, is, that, if practicable, the parents and guardians of young men at the Academy, should have official information concerning their conduct and standing at stated periods, and especially that timely warning should be given when cadets exhibit a tendency to such neglect of study, or irregularity of deportment, as will subject them to censure, or such natural incapacity as renders them unfit to receive the public patronage. We are satisfied that, whenever such information has been requested by parents or guardians, it has been given by the superintendent promptly and frankly. But, if given universally and statedly, it would impose upon the superintendent an amount of correspondence which, in addition to his other weighty and responsible duties, it would be next to impossible to execute, even under the impulse of his well known and devoted zeal to the best interests of the Academy. If the present suggestion then be entertained, some general plans must be adopted for carrying it into effect, and the superintendent must have the requisite assistance. It may be worthy of the serious consideration of the Department of War, whe-

ther such a measure would not be just in itself, as alleviating the anxieties of parents and guardians, and also expedient, as having a tendency to prevent or remove such prejudices against the academy as have been excited in the minds of those to whom the information of the serious delinquency of their children or wards has been communicated without previous warning.

3d. *Fiscal concerns.*—We have not been less diligent and minute in our inquiries under this head, than under those which have preceded; on the contrary, if investigations have been more thorough upon any one point than upon another, they have taken place upon that now under consideration. Having learned that the attention of previous Boards had not been specially called to this subject, we thought that a time had arrived when, with advantage to the service, and with satisfaction to those particularly concerned, and to the country generally, the fiscal concerns of the Academy, not only for the past year, but for a number of years, might be thoroughly examined.

We have visited the office of the quartermaster, and, as far as his department is connected with the Academy, (and to this only could our attention be directed with propriety,) we are fully satisfied that it is well conducted; the system by which the various books are kept is very complete; and we have no opinion to express but that of entire approbation. The office of the treasurer and paymaster more fully employed our attention, as in this office are kept the accounts of expenditure amongst the cadets, and of receipts and disbursements relating particularly to West Point. We will first express, in general terms, not simply our approbation, but our admiration of the accuracy and neatness with which the whole business of this office is conducted. In the circular letter received from the Secretary of War by the members of the Board, it is suggested to inquire particularly into the fiscal concerns of the Academy: as, however, the receipt and disbursement of the pay of the cadets, and of other appropriations made by Congress, is regularly examined in another quarter, we supposed that it was principally incumbent upon us to examine relatively to the moneys which might arise from the property of the United States at the Point itself. As regards the cadets, their accounts are kept with great precision; they have to pass such repeated examination, and are so effectually checked, that it seems hardly within the limit of possibility that any individual of the corps should suffer loss, or be permitted to indulge in extravagance. Each one has a pass book, being a transcript of his account on the books of the office; he has, also, a similar book for his running account with the different tradespeople. No bill is discharged unless it has the signature of the cadet himself, in testimony of its correctness; nor can he procure any article of dress, or otherwise, except by express permission, under the hand of the superintendent. We were fully satisfied in these particulars. Our attention was then directed to the state of the public property at this post. We found in the books accounts opened with two different funds, called the land fund and the school fund. The former was commenced by virtue of authority derived from the Secretary of War, and communicated to the superintendent from the Engineer Department, in a letter from General Macomb, bearing date December 20, 1822. It appears that the present superintendent, finding that a considerable saving might be made of small amounts derived from the public domain, which had previously been lost or thrown into the treasury without discrimination, suggested to the Engineer Department the expediency of raising a fund from the same. The idea was communicated to the Secretary of War, was approved by him, and the superintendent duly authorized to make the proceeds arising from the public domain at West Point, by selling wood, hoop poles, &c. &c. a separate fund, to be applied to the benefit of the institution. From this source, and from the rent of certain public buildings occu-



pied by persons living at West Point, this fund was accumulated. We examined the books relating to its very origin, and followed up the accounts to the present period. We believe that every single article of receipt and expenditure came under our notice and inspection. The wood was sold to persons who, under contracts regularly entered into, and communicated to the Engineer Department, bought it on condition of receiving half the proceeds for cutting it down and carrying it to market. These proceeds are regularly entered in the books. In some instances this wood was purchased from the contractors by the quartermaster for the United States' service, and upon reasonable terms. On this point we have to observe, that the fuel purchased for the use of the station, during the administration of the present superintendent, has been procured upon terms considerably more favorable than at any previous period. By strict economy and good management the amount of sixteen thousand three hundred and forty-six dollars and eighty-four cents has thus been secured to the United States. It has been expended in erecting a kitchen to be attached to the cadet's mess room; in constructing barracks, which were much needed for the musicians of the band; and the balance, of eight thousand seven hundred and thirteen dollars, has been appropriated to building the hotel above mentioned.

The school fund has been raised from the profits accruing from the sutler's establishment. It has been expended in erecting two school houses, and in partly maintaining teachers for the children of the soldiers upon the Point, and others connected with the public service. A small amount of this fund has been transferred, for a time, to the land fund; but is to be returned when the charge for building the hotel is liquidated.

The station at West Point has been greatly benefited in several respects, and especially by the erection of a large, commodious, and handsome hotel, which commands the united approbation of all who have seen it, and which every person, at all acquainted with the situation, regards as having been a measure of indispensable necessity. The whole cost of the hotel is seventeen thousand two hundred and twenty-six dollars and twelve cents; of this sum, five thousand eight hundred and ninety-five dollars and thirty-seven cents are yet unpaid. This balance, however, is rapidly decreasing by the proceeds of the land fund, and the rent of the hotel. When this balance shall have been entirely liquidated, the whole rent of the hotel, which can never be less than one thousand dollars per annum, and perhaps more, will be available to meet expenditures for the post schools, the library of the academy, and for other valuable objects connected with it. From this statement it will be obvious that no common degree of credit is due to the superintendent, for his watchful care over the public interests, and for the good judgment with which they have been managed. For these important objects the Government has not been called upon to make a single appropriation, nor have been exposed to any expense whatever. The whole has been accomplished by a rigid economy of resources which might have disappeared by neglect, without the knowledge of any one, and which in some degree had disappeared, until arrangements were made by the present superintendent to preserve and increase them, until they amounted to a fund adequate to the accomplishment of the above valuable purposes.

We therefore cannot satisfy our feelings without expressing our unqualified approbation of the faithful and judicious conduct of the superintendent. We would esteem it an insult to his well earned and well sustained reputation, as a gentleman and a man of honor, to give him our public meed of approbation for his integrity in conducting these measures. This can never for a moment be impeached, from any quarter reputable in itself or deserving notice, from its information upon the subject. We, however, with propriety, can repeat our judgment, that

the land fund and the school fund have been raised and increased by the exercise of strict economy, and have been disbursed for valuable and substantial improvements, with good taste and sound judgment.

Having, as you will perceive by the preceding review, minutely examined the police and fiscal departments of the institution, we consider it due to the gentlemen filling these departments, to express our unanimous and warm approbation of the system, order, and efficiency, with which the duties of the military staff of the post are discharged.

We have the satisfaction of declaring that, after a patient and minute investigation of the internal police, the discipline, and the fiscal concerns of the Military Academy at West Point, we find nothing to disapprove, little to suggest, and very much to commend.

Warfare, commencing on the ferocious onset of savage barbarians, rose gradually with civilization into an art, and, since the invention of gunpowder, has assumed the dignity of a science, based upon mathematics and natural philosophy. As such it is treated at West Point. Without troubling you with a detail of the numerous ramifications through which the study is followed, we shall only state that we have heard with interest and pleasure a very protracted examination upon all the leading topics of algebra, surveying, shades and shadows, perspective, spherical projections, and the calculi. These, with a long list of other performances, form a mathematical exercise, surpassing in extent and accuracy the course (we believe) of any other academic institution. While we pay a merited tribute to the learning and assiduity of the preceptors, and the talent and diligence of the pupils, we must remark that this appears to us a pursuit of somewhat all-engrossing character. To a certain extent, mathematics are indispensable, and must occupy much time, but beyond that universal test, utility, we think they ought to give place to studies of equal importance. Mechanics, optics, electricity, astronomy, and other branches of natural philosophy, next occupied our attention; and we consider them taught with a success as great as possible with a very limited apparatus. Considering the high importance of these subjects, an appropriation for this specific purpose would be well judged liberality.

We think that some modifications might be beneficially adopted in the apportionment of attention allotted to each branch of study. Mathematics are indisputably the basis of military science, and we would by no means disparage a branch of study of such pre-eminent importance. But mathematics are not the alpha and omega of the art of war. Few minds are competent to grasp, and still fewer to carry into their highest application, the recondite propositions of that science. Nor is this probably requisite. To a certain extent, such inquiries are of paramount importance; but we doubt whether it be essential to the formation of an efficient officer, that he be able to solve every question on the equation of osculatory circles. Let full scope be still afforded to genius of this species, as often as it is discovered, and, when sufficiently matured, let its claims be allowed a preference in the engineer and artillery corps; but let us not destroy talent, in its other beautiful and useful forms, by clipping it into triangles and parallelograms. There are other qualifications of the citizen warrior, characters never to be separated,) to which we recommend increased attention; convinced, as we are, that, in the conduct of war, genius of the highest order frequently exists, without that peculiar bent which leads to excellence in mathematics.

Destined to become depositaries of a power, in its nature arbitrary, ought not these interesting youths to be early taught to appreciate the principles, and venerate the authority of law; and through the kindly medium of philosophy, to view their duties and relations towards friends and country? Circumscribed by quarters, garrisons, and camps, ought not the studies of language and literature to afford

them, in the pursuits of cultivated taste, some refuge from the tedium of indolence, or the excitements of conviviality? Are history and geography as nothing amongst the qualifications of an accomplished soldier? Under such impressions, we have passed, with undiminished interest, from the laws of matter and motion, to the mental fields of ethics, rhetoric, and language. Upon international law, as well as upon the spirit, provisions, and operation of the federal constitution, the cadets have exhibited a very competent knowledge; but this branch might be pushed with advantage into a much wider inquiry—the philosophy of government in its elements, and political economy in its administration. In ethics, the answers were accurate, spirited, and gave earnest that their duties, as men and citizens, are well understood. We find no fault with the selection of words, the turn of expression, or the grammatical construction, under which ideas were expressed; yet some little attention might be directed to these particulars. In the place of rhetoric, there is a chasm to be filled up, as far as any useful purposes demand, with a very succinct course. Facility and grace in English composition are the results of habit; and young men ought to be exercised in committing their thoughts to paper. We therefore recommend, that subjects for short essays be given weekly to students of the first class.

Although the dead languages may not form an object of primary importance, nevertheless they whose previous education had proceeded upon this basis, ought not to be suffered to throw away acquirements costing so much time. Greek may be superfluous, but, following the example of English military schools, Latin, if known, ought not to be forgotten.

Our institutions contemplate the soldier as something better than a mere machine for fracturing human limbs. Peace is the genius and natural state of the American Government; war is only an exception to the general rule: the cadets ought, therefore, to be trained to maintain their rank in civil as well as military life. But this cannot be accomplished without some school library of cheap editions of English classical, historical, and miscellaneous works, which might be made to circulate. A slight monthly examination in geography and history would enable the professor to give proper direction to this branch.

Another difficulty is here encountered. No professor can thoroughly discuss his subject without reference to authorities, and no student can successfully follow a chain of reasoning, if all inquiry be limited within the narrow precincts of a text book. At every step collateral views arise, which cannot be pursued without access to a library—an arsenal, which ought to contain every intellectual weapon. A library there is, rich in all that regards military or physical science; but we seek in vain for the volumes of intellectual knowledge. The professor has done much, but he has done it from private funds; and we submit whether public liberality should not afford a small appropriation for books on moral and literary topics. To read the French with tolerable distinctness, and to translate it with facility, are, perhaps, all that is necessary in that language; and these objects have been successfully pursued. Accurate pronunciation and ready expression can only be acquired by long intercourse with natives, and are neither absolutely requisite nor entirely attainable at the Academy; but, as the language is taught by the most competent instructors, such increased attention to pronunciation as will not materially augment the time consumed in the study, is deemed expedient.

Having recommended some extension of the scheme of instruction, we naturally look for the means by which it can be accomplished. The cadets are already tasked to the extreme of their powers, and it would be unreasonable to impose additional studies, unless some modification be adopted in the mathematical department, or higher qualifications be exacted for admission, or the course be

prolonged to five years. A union of the first and last of these alternatives might be salutary, and would grant an additional hour daily for those exercises, on which the bodily, nay, mental vigor of youth, so essentially depend. Perhaps a school for preparing boys, during one year before their admission to the rank of cadet, would meet every difficulty—care being taken to admit none whose extreme youth renders it improbable that they can readily imbibe instruction. Sixteen years seems the lowest age at which a boy should be admitted as cadet.

Considering the disadvantages under which the department of chemistry labors, the examination upon that science and military pyrotechny, was creditable alike to the instructors and pupils. Not only the room appropriated for this department, but the chemical products and materials are insufficient; and these pursuits are of importance sufficient to merit increased consideration. A permanent professor, with adequate rank and emolument, additional rooms, and an increased apparatus, should be allowed: the value of these three requisitions being in the order in which we state them.

The application of mineralogy and geology to the "art militaire," may not be of indispensable importance; but if a large portion of the cadets are destined to act as civil engineers, and to assist in developing the natural resources of the country, then these sciences assume a new aspect. Some of us have seen beds of the most valuable minerals, which had lain neglected and unknown, brought to light and utility by the cursory survey of a well educated engineer.

The senior class of the cadets was exercised in cannon and mortar firing; their shot and shells were thrown with surprising accuracy, and could scarcely have been excelled by veteran gunners. The whole corps was carried through a series of artillery and infantry evolutions, and performed all its movements with a readiness and precision which evinced thorough instruction, practically as well as theoretically. The muscular steadiness and machine like uniformity of a disciplined regiment are unattainable by youthful limbs, but in their celerity and accuracy of movement are visible the elements of future proficiency. Although divested of much of the pomp and circumstance of war, the general effect was truly military. Having reviewed the pupils, we now turn to the preceptors; and the first consideration which presents itself is the vital importance of commanding the services of men qualified in the highest degree. In this happy country the field is unbounded for the employment of talent and industry; and if any institution refuse an adequate remuneration, others are ready to attract able men by more liberal offers. In this respect, there is ground to apprehend a deterioration subversive of the credit and value of the Academy. While the institution at West Point exacts duties more extensive and more harassing than perhaps any other seminary, we are constrained to say that the emoluments of its instructors are below the general scale. Of these truths a practical illustration arose before us in the distinguished professor of engineering, who, it is probable, quits the establishment for the employment of a private company.

A short inquiry will satisfy you on these points, as well for the increase, as for the equalization of salaries. Here let us add, that, after a strict inquiry into the manner in which the authority of the superintendent is exercised over the cadets, the Board is gratified to find that authority administered in a manner as parental and indulgent as would comport with a proper enforcement of the laws of the academy, and with the true interest of the pupil. In this point of view, as well as in all others, the United States have been peculiarly fortunate in the gentleman who presides over the institution.

If health and vigor be necessary to the prosecution of any object, it is peculiarly indispensable that the early

training of a soldier should conduce to the primary qualities of endurance, strength, activity, and hardihood. While we pay a tribute of applause to the mental discipline of the Academy, we think that the zeal of science has overlooked somewhat of the attention due to that homely adage that a sound body is most frequently the domicile of a sound mind. We would therefore renew the recommendation to a former Board, that provision be made for proper instruction in horsemanship, and that increased attention be directed to the exercise of the sword. These are parts of a regular training in many private academies, and seem peculiarly indispensable in a military establishment. It may be true that most boys can ride and handle a weapon with tolerable dexterity; but the fate of a battle frequently depends upon the horsemanship of an aid-de-camp; and an officer's only weapon of offence and defence is his sword; and we submit, that qualities upon which may frequently depend the success of an operation, or the life of an individual, ought not to be left to the hazard and awkwardness of self instruction. These are attainable in perfection only by the flexible muscles of youth, and might be so arranged as to form a healthy relaxation from sedentary occupations. We therefore recommend that a building be erected for horsemanship, the sword, and gymnastic exercises. Eight thousand dollars appear to us an indispensable provision for that object.

In this place we may cursorily remark, that, for a situation so highly favored by nature, and intended to become one of our monuments of national greatness, some architectural design is much wanted. When a new building is erected, it should be upon a site and after some model which may form part of a general effect; whereas, under the present system, the eye is greeted only by the appearance of a somewhat irregular village.

West Point is an academy strictly national, founded for the benefit, and supported by the liberality of the people at large. We have scrutinized with jealousy, and perceived no ground for insinuating that the distribution of cadetships is the appendage of power or the tool of political patronage. Yet it must not be concealed that from such a prejudice, widely disseminated, has originated much of the dissatisfaction manifested towards the institution. An evident method presents itself to obviate such objections, and place the establishment upon its proper popular basis. Let a youth be selected from each Congressional district, a *bona fide* inhabitant within that geographical circle, and in all cases never to be replaced but by one similarly qualified. But a wide margin should be left for the sons of deceased officers and the discretion of the War Department.

Let this be represented by two cadets from each State and territory. Thus the Academy will form a portrait of Congress; the distributions will be in the same ratio as our population; every portion of our country, however remote, will enjoy a fair share of its benefits, and general justice and satisfaction will be felt.

We shall not descend from general remarks to minute details; but we should do injustice to the Academic Staff, and to the various departments, civil and military, of this noble institution, and an equal violence to our own feelings, were we to close without expressing, in broad and unqualified terms, our sense of the fidelity, diligence, and ability, with which their respective avocations are conducted. Such preceptors and such pupils are worthy each of the other. Nor is this a scanty praise. We see before us the flower of American youth, the guardians of their country in war, its ornaments in peace, congregated from every region of our wide-spread republic, the destined warriors and statesmen of a future generation. May the friendships of their early life grow into ligaments binding together the giant members of our confederation, and giving perpetuity to those political institutions which form the best earthly hope of man!

In fostering this institution by all the means placed with-

in your control, you will render one of the best services to your country which your high trust can enable you to perform. The extension of its benefits, either by the enlargement of the capacity and resources of this school, or by the establishment of a second, in a different and distant part of the Union, would be one of the most substantial public benefits which could mark your distinguished administration, or be conferred upon our country by the National Councils.

All of which is respectfully submitted.

MONTFORD STOKES, North Carolina.

*President of the Board.*

JOHN M. WALN WRIGHT, New York.

JAMES M. MASON, Virginia.

JOHN TOWNSEND, New York.

JAMES SHANNON, Kentucky.

W. W. SEATON, City of Washington.

WM. G. DICKENSON, Tennessee.

SPENCER PETTIS, Missouri.

FRANKLIN BACHE, Pennsylvania.

SAMUEL EDWARDS, Pennsylvania.

S. FINDLAY, Kentucky.

S. STEELE, Kentucky.

GEO. P. McCULLOCH, New Jersey,

*Secretary of the Board.*

#### MEMORIAL OF THE CHEROKEE INDIANS.

PRESENTED TO CONGRESS JANUARY 18, 1831.

*To the Honorable Senate and House of Representatives of the United States of America in Congress assembled.*

The memorial of the undersigned, delegation from the Cherokee nation east of the Mississippi, thereto especially instructed by their nation, respectfully sheweth unto your honorable bodies the afflictive grievances which it has been their unhappy fate to endure for some time past.

They would respectfully call your attention to the memorials submitted before you during the last session of Congress, embracing subjects of great importance to the interests and welfare of their people; some of which they beg leave, at this time, again to repeat.

The State of Georgia, in its earnest desire to acquire the extent of her chartered limits, set forth a claim to a large portion of Cherokee lands, as having been purchased under the treaty of the Indian Springs, made with the Creek nation, and which, it is well known, was rendered null and void by a subsequent treaty, entered into in 1826, in this city, with the same nation. Under the authority of said State, a line has been run by commissioners, comprehending more than a million of acres of land, lying north of the established boundary between the Cherokee and Creek nations, and to which the latter disavowed any pretension of right, claim, or interest. The subject was brought before the President of the United States, who has caused a third line to be established, never contended for by any of the parties, and unauthorized by any existing treaty with either nation, though officially declared shall be the line between the lands ceded by the Creeks in 1826 to the United States, and the Cherokees. On the portion of territory we have thus been deprived of, were the houses and homes of many Cherokees, who have been compelled to leave them, with the farms that afforded their families subsistence. "The tract of land," says Governor Gilmer, in his late message, "from which the Cherokees have been removed by order of the President, is supposed to contain four hundred and sixty-four thousand six hundred and forty-six acres, and now subject to be disposed of," &c. From the decision of the President on this subject of boundary, your memorialists, in behalf of their nation, beg leave to appeal, and to question the legal and constitutional powers of the Chief Magistrate to change or alter, in any manner, the estab-

lished line between the Cherokees and Creeks, without their consent. A difference of opinion had arisen in 1801, between the same nations, relative to a certain part of their boundary; and when the subject was introduced at the War Department by a deputation of Cherokee chiefs, and the interference of the Government solicited, the following reply was given by direction of President Jefferson: "It will be very difficult for the President to ascertain the lines between the several countries of the red people. They must settle all such controversies among themselves. If you cannot agree, how shall we be able to decide correctly. [See minutes of conferences holden at the War Office, between the Secretary for the Department of War, on behalf of the United States, and a deputation from the Cherokee nation of Indians, on behalf of the said nation, on the 30th of June and 3d of July, 1801.] During the administration of the same eminent lawyer and statesman, the treaty of 1806 was made with the Cherokees, by the third article of which the right of Indian nations is admitted, to settle and determine questions of boundary among themselves, viz: "It is also agreed on the part of the United States, that the Government thereof will use its influence and best endeavors to prevail on the Chickasaw nation of Indians to agree to the following boundary between that nation and the Cherokees," &c. "But it is understood by the contracting parties, that the United States do not engage to have the aforesaid boundary established, but only to prevail on the Chickasaw nation to consent to such a boundary between the two nations." By these references, we believe the position of our nation to be fully and clearly sustained; and that its agreement with the Creek nation in 1821, on this subject, is binding to all intents and purposes, and that the sanction of this Government was not essential thereto, to make it so; and that they alone, by voluntary surrender of their lands, have the right to alter that boundary.

By the treaty made with the Arkansas Cherokees in 1828, inducements were held out to the individuals of our nation to remove west of the Mississippi, and join their brethren, who had withdrawn from their connexion with us in 1817 and 1819, and established for themselves a separate and distinct Government, thereby absolving all the political relationship which had previously existed as citizens of the same community. That treaty was never presented to the authority of our nation for its assent, nor the right of the Arkansas Cherokees ever admitted to interfere with, or affect, in any manner, the rights and interests of our people. Under its provisions, however, individuals have been induced to emigrate; and, in pursuance of the stipulation contained in one of the articles, that the Government would make to every individual so emigrating "a just compensation for the property he may abandon," appraisers were appointed by the President, who has extended the term "property abandoned" to embrace the houses, farms, and lands upon which situated, claimed by emigrants, and who have valued, agreeably to instructions, the improvements so claimed or occupied by them; and it is now contended that the United States have acquired a title to the lands as well as to the improvements valued, and permission given by the Executive to citizens of the United States to enter the nation, and occupy them to the exclusion of the natives. The lands are, it is well known, not held in severalty by the Cherokees, but as a nation; and this right has been solemnly guaranteed to them by treaty with the United States. The right of individuals to cede or transfer any portion of their territory has never been admitted, either by themselves or the Government; and in point of justice and law, all such citizens of the United States who have thus been permitted to enter and settle upon the territory, are intruders, and the faith of this Government is pledged for their removal. We protest against the right of the Arkansas Cherokees, or the Government, to enter into any

arrangement to affect our rights contrary to the will of the nation, and also against the introduction and continuance of a population in our country, so detrimental to the interests and peace of our citizens, the security of their persons and property from insults and outrage; and so utterly at variance with the plighted faith of this Government, for our territorial protection and promise of good neighborhood.

It is further contended by the Executive, that the United States have acquired a title to lands within the present acknowledged bounds of the nation, under the seventh article of the treaty of 1817 with the Cherokees, which stipulated that the United States should lease to the Indians improvements that had been abandoned by emigrants, and who had received compensation for the benefit of "the poor and decrepit warriors" of the nation, and which was to be continued until such improvements were "surrendered by the nation or to the nation." By the treaty of 1819, the leases under that of 1817 were declared void, which is of itself sufficient evidence of a surrender to the nation of all such improvements as fell within its limits agreeably to the boundary then established; and it is moreover declared, that the treaty of 1819 is a final adjustment of the treaty of 1817, and the lands then ceded to the United States are in full satisfaction of all claims which the United States have on that nation on account of a cession of lands on the Arkansas, for the benefit of the emigrating Cherokees; yet a claim has been asserted by the Executive, on the part of the United States, to a title to lands within our present bounds, acquired under an article in the treaty of 1817, which, by the treaty of 1819, was rendered void, and fully satisfied, which, it is said, enure to the benefit of Georgia, and is made another plea to allow intrusions. Added to all these are many other intruders, who, without any other pretext than to trespass upon our possessions and our rights, contrary to existing laws, are allowed to annoy and harass our peaceable citizens to an almost insufferable degree. In many instances they have by violence forced the natives out of their houses, and taken possession; while others, less daring, have erected buildings for their own use, upon the premises of the objects of their oppression. The frequent complaints made through the agent, and otherwise, to the Government, failed to produce the desired relief from circumstances so well calculated to produce excitement and disturbance between the whites and the red people. To such an alarming extent had intrusion been indulged, that the authority of the nation, relying on an article of treaty, and the former advice of the present Chief Magistrate of the United States, when a General of the southern division of the United States' army removed a few families who had penetrated far into the country, and of the most exceptionable character—a measure demanded by the security of the persons and property of the Cherokees. It was seized upon and declared a hostile movement, and an armed band of intruders, in retaliation, wreaked their vengeance upon a few peaceable individuals. One was cruelly murdered, another wounded, and a third led a prisoner into Georgia, and thrown into jail, whence he was subsequently released, after much trouble, by a writ of habeas corpus. A report of these transactions was made to the Government by the United States' Agent, which, however, resulted only in calling forth language of exception against our chiefs; and the perpetrators of the murder are still trespassing, in open day, upon our rights and our territory, which has drank the blood of an innocent victim to their outrages. During the past summer, the United States' troops were ordered into the nation, as we believe, for the purpose of redeeming the pledges of the Government for our protection; they removed the intruders, who had flocked in thousands to our gold mines, and a few also along the frontier settlements; many, however, were not

molested, and others returned in a short time after, placing at utter defiance the authority vested in the United States' Agent, and heretofore exercised by his predecessors. All the Cherokees who had been engaged at their gold mines were removed with the intruders, and experienced much injury and inconvenience, under an order from the Department of War, and during the stay of the troops in the nation were not permitted to re-engage at their mining operations. The troops have been suddenly withdrawn, and our country again left exposed to the ravages of intruders. An act has recently been passed by the Legislature of the State of Georgia authorizing the Governor thereof to take possession of our gold mines, and appropriating twenty thousand dollars for that purpose; and another providing for the survey of our country into sections, and for the appointment of magistrates therein; against which we would most solemnly protest, as a departure from the obligations of good faith, and the desire to secure and promote the peace and friendship so often repeated in our treaties. The language of the great and illustrious Jefferson, through the Secretary of War, to our chiefs, recurs to our memory with peculiar force: "The President listens willingly to your representations, and requests you and your nation to be assured of the friendship of the United States, and that all our proceedings towards you shall be directed by justice and a sacred regard to our treaties. You must be sensible that the white people are very numerous, and that we should therefore be desirous to buy your land when you are willing to spare it; but we never wish to buy except when you are perfectly willing to sell. The lands we have heretofore bought of you have been marked off by a line, and all beyond that line we consider absolutely belonging to our red brethren. You shall now receive the map of the last line, which has heretofore been promised to you, to stand in evidence between your people and ours, and to show which lands belong to you and which to us." (See document before referred to.) We would most earnestly pray that the kind assurances of the friendship of the United States, by one whose examples are so worthy of imitation, may never be passed over with an unfeeling heart for the unfortunate Cherokees; and that all proceedings towards them may be directed by justice and a sacred regard to treaties.

The Executive of the United States, during the past summer, issued an order to the Agent for our nation, changing the mode of paying the annuity, and providing for its distribution amongst the individuals, averaging about forty-two cents each, contrary to the well known wishes of the Cherokees, and their solemn protest against the measure, the stipulations of existing treaties, and the uniform practice of the Government, down to the payment of the last annuity in 1830. It is a stipend due to the nation, and has ever been controlled by its authority. The Cherokees have a treasury into which it is placed for the support of their Government—"a Government of regular law," modelled agreeably to, and in pursuance of, the kind and parental advice of President Jefferson, contained in a written address to the Cherokees, 9th of January, 1809--and other national objects, by which means all are enabled to enjoy, in some degree, the benefits arising from its application; but of what possible advantage will it be, if paid as contemplated, when hundreds will have a hundred or more miles to travel, neglecting all other business, to obtain the small sum of about forty-two cents? But it cannot be: we protest against any alteration, and humbly hope that you will direct the payment as heretofore, and in conformity with the treaties under which the fund is stipulated. We are aware that it has been asserted that the chiefs and others speculate upon this fund; but it is not so: even if it were, would it justify a departure from the course which the pledges of the United States have bound its officers to pursue? The

language of one so truly the friend of the weak and the oppressed as the Chief Magistrate of the United States in 1808, is too explicit to pass unnoticed on this occasion. To the Chiefs of the upper Cherokee towns he spoke as follows:—"You complain that you do not receive your just proportion of the annuities we pay your nation--that the chiefs of the lower towns take for them more than their share. My children, this distribution is made by the authority of the Cherokee nation, and according to their own rules, over which we have no control. We do our duty in delivering the annuities to the head men of the nation, and we pretend to no authority over them, to no right of directing how they are to be distributed." (See Address, signed Th. Jefferson, to the upper Cherokees, dated 4th May, 1808.) That the same mode may be still continued, is all we ask, and it is anxiously desired by the whole nation. Since that year there have been no complaints on the subject; why, then, at this late period, when civilization has taught better the manner in which this small sum should be applied, is the change in the mode of payment to be made?

During the last session of Congress a bill was passed, whose object, as we understood, was to enable the President of the United States to comply with the compact of 1802, between the United States and the State of Georgia, and afford means to the Indian tribes, whose great desires were represented, by the advocates of its passage, to effect their removal west of the Mississippi. It is not desirable for us to remonstrate upon this occasion, but we hope that the kind indulgence of your honorable bodies will be extended, while we state some of the many cases of affliction and oppression which have occurred since the passage of the act. A ray of hope, in the midst of great apprehension, seemed to shed its glimmering light on the minds of the Cherokees, to learn, from the speeches of the Georgia delegation and others, in Congress, that nothing should be practised on the Indians in the operation of the bill, or in connexion with it, that benevolence and humanity could censure; that neither force nor injustice was contemplated by the Government, or the authorities of Georgia; and that they should be left to the exercise of their own free will. But experience has taught us to know that a powerful auxiliary has been afforded to forward the views and the policy of that and other States, and of the Executive of the United States, towards the unfortunate aborigines of this continent. They have looked back upon the scenes and prospects of other days, and the contrast with those of the present time has caused much sorrowful feeling. Georgia, in the recent measures put in force to compel the Cherokees to listen and yield to the eloquence of the Secretary of War, and Government's special agent, has departed from the high and magnanimous pledges of kind dealing toward the Indians, on the floor of Congress, and has frowned and threatened to prostrate their innocent determination to abide on their ancestral territory; but without effect. She has sent armed guards of fifties, thirties, and tens, in time of profound peace, under pretence of executing her laws, and when the occasion did not require a display of "the pomp and circumstance of war." Leaving the Indian children in destitution to mourn their hapless lot, she has led their fathers in captivity to a distant land, to destroy their spirits by immuring them in the walls of her prisons. In one case a white man, who had, a long while ago, taken the protection of the nation, and married a Cherokee woman, and, under the care of the Cherokee nation, had acquired property and a large family, whose interests are identified with those of the Indians, having entered into a mercantile partnership with two Cherokees, he soon fell out with them, and instituted suits against them in the courts of the nation, which decided against him. After this, he filed a bill in the superior court of Gwinnett county, in Georgia, against the two Cherokees, and prayed a writ of



*ne wheat*, before Augustin S. Clayton, judge of the court, sitting in chancery, who awarded the writ, which was served upon one of them in the Cherokee nation, by a deputy sheriff of Georgia, and, under a guard of three men, he was carried about eighty miles to the common jail of Gwinnett county, in the said State, where he was kept in close confinement until the sitting of the court in September last, when he was brought up for trial before his honor A. S. Clayton, who issued the writ, and was discharged, on the ground that the affidavit of the plaintiff was not sufficient to have warranted the issuing of the writ. During the same trip, by the deputy sheriff, he arrested an elderly Cherokee woman, a married lady with a large family, on a plea of debt, and carried her off captive from her husband and children, fifteen miles on towards Georgia, when she fortunately succeeded in obtaining her liberty by giving bail.

In another case, in the name and authority of George R. Gilmer, Governor of Georgia, a bill was filed in chancery, in the superior court of Hall county, in July last, against certain sundry Cherokees, praying for an injunction to stop them from digging and searching for gold within the limits of their own nation; and the bill being sworn to before the same A. S. Clayton, he awarded an injunction against the parties named in the bill as defendants, commanding them, forthwith, to desist from working on those mines, under the penalty of twenty thousand dollars, at a time and place where there were unmolested several thousand intruders from Georgia and other States, engaged in robbing the nation of gold, for which the owners were ordered not to work by the said writ. Under the authority of this injunction, the sheriff of Hall county, with an armed force, invaded the nation, consisting of a colonel, a captain, and thirty or forty militia of the State of Georgia, who arrested a number of Cherokees engaged in digging for gold, who were at first rescued by the troops of the United States stationed near the place, and the sheriff and his party themselves made prisoners, and conducted fifteen miles to the military camp, when a council of examination was held, and the exhibition of their respective authorities was made, which resulted in the release of the sheriff and his party, and a written order by the commanding officer of the United States' troops, directing the Cherokees to submit to the authority of Georgia, and that no further protection could be extended to the Cherokees at the gold mines, as he could no longer interfere with the laws of Georgia, but would afford aid in carrying them into execution. On the return of the sheriff and his party, they passed by the Cherokees, who were still engaged in digging for gold, and ordered them to desist, under the penalty of being committed to jail, and proceeded to destroy their tools and machinery for cleaning gold, and, after committing some further aggression, they returned. Shortly afterwards, the sheriff, with a guard of four men, and a process from the State of Georgia, arrested three Cherokees for disobeying the injunction, while peaceably engaged in their labors, and conducted them to Wadkinsville, a distance of seventy-five miles, before the same A. S. Clayton, who then and there sentenced them to pay a fine of ninety-three dollars cost, and stand committed to prison until paid, and also compelled them to give their bond, in the sum of one thousand dollars, for their personal appearance before his next court, to answer the charges of violating the writ of injunction aforesaid. In custody they were retained five days, paid the cost, gave the required bond, and did appear accordingly as bound by Judge Clayton, who dismissed them, on the ground that the Governor of Georgia could not become a prosecutor in the case. For the unwarrantable outrage committed on their liberty and persons, no apology was made, and the cost they had paid was not refunded.

During the past summer, a Cherokee was arrested in

the nation by an officer of the State of Georgia, on a charge for murder committed upon the body of another Indian, in said nation, and carried to Hall county, and placed in jail, to await his trial under the laws of that State. After some months confinement, he was taken out, and tried by the aforesaid A. S. Clayton, and sentenced by him to be executed on the 24th December last. An application was made to the Chief Justice of the United States for a writ of error, in order that the case might be brought before the Supreme Court of the United States, to test the constitutionality of the proceedings, and was obtained. The arbitrary manner in which the citation was treated by the Governor and Legislature, then in session, are known to you. The resolutions adopted on the occasion breathe a spirit towards our nation, of which we will not permit ourselves to speak: suffice it to say, therefore, that the writ of error has been disregarded, and the unfortunate man executed agreeably to the sentence of the judge.

One other case: A party of armed men, ten in number, from De Kalb county, Georgia, committed numerous outrages, under the pretence of being Georgia officers, as far as seventy-five miles within the nation. They arrested a Cherokee without cause, and compelled him to pay a horse for his release. Under forged claims, they attempted to arrest another individual, and, with him, his negroes, but failed: arrived at the residence of another, in his absence, they were in the act of driving his cattle off, when they were rescued by his neighbors, though they succeeded in committing some robbery upon the house. At another place they forced from an Indian his horse, without even a pretended claim, and cruelly abused the persons of two aged Cherokees, one a female, causing a flow of blood, because they did not quietly suffer themselves to be robbed of their property. Two of their children, who had felt it their duty to interfere for the protection of their aged parents, from an insult and outrage so barbarous, were led captive into Georgia, and compelled for their liberty to give their notes for one hundred dollars, each, payable in ten days!

Many other cases of aggravating character could be stated, did the nature of a memorial allow, supported by unexceptionable evidence. To convince the United States of our friendship and devotedness to treaty obligations, we have endured much, though with bleeding hearts, but in peace. And we hope enough has been done to convince even the most sceptic that a treaty "on reasonable terms" can never be obtained of our nation, and that it is time to close this scene of operations, never contemplated by the compact between the State of Georgia and the United States. How far we have contributed to keep bright the chain of friendship which binds us to these United States, is within the reach of your knowledge. It is ours to maintain it, until, perhaps, the plaintive voice of an Indian from the South shall no more be heard within your halls of legislation. Our nation and our people may cease to exist before another revolving year re-assembles this august assembly of great men. We implore that our people may not be denounced as *savages*, unfit for the "good neighborhood" guaranteed to them by treaty. We cannot better express the rights of our nation than they are developed on the face of the document we herewith submit; and the desires of our nation, than to pray a faithful fulfilment of the promises made by its illustrious author through his Secretary. Between the compulsive measures of Georgia and our destruction we ask the interposition of your authority, and a remembrance of the bond of perpetual peace pledged for our safety, the safety of the last fragment of once mighty nations, that have gazed for a while upon your civilization and prosperity, but which now totter on the brink of angry billows whose waves have covered in oblivion other nations that were once happy, but are now no more!

21st Cong: 2d Sess.]

*Reduction of the number of Officers of the Army.*

The schools where our children learn to read the word of God, the churches where our people now sing to his praise, and where they are taught that "of one blood he created all the nations of the earth;" the fields they have cleared, and the orchards they have planted; the houses they built, are all dear to the Cherokees, and there they expect to live and to die, on the lands inherited from their fathers, as the firm friends of all the people of these United States.

R. TAYLOR,  
JOHN RIDGE,  
W. S. COODEY,

*In behalf of the Cherokee Nation.*

WASHINGTON CITY, 15th January, 1831.

*To the beloved Chief of the Cherokee Nation, the LITTLE TURKEY, on behalf of the said nation, the Secretary of War of the United States sends greeting:*

FRIEND AND BROTHER: The deputation appointed by you to visit the seat of Government have arrived, and been welcomed by your father, the President of the United States, with cordiality; they have spoken, and he has heard all the representations that they were instructed by you, on behalf of the Cherokee Nation, to make to him. In his name, I have answered them in sincerity and truth; and when they shall report to you what I have said, I trust that you will feel all uneasiness removed from your minds, and that you and your nation will experience that satisfaction which must result from a conviction of the certainty with which you may continue to rely on the protection and friendship of the United States.

These can never be forfeited but by the misconduct of the red people themselves. Your father, the President, instructs me to assure you, in behalf of your nation, that he will pay the most sacred regard to the existing treaties between your nation and ours, and protect your whole territory against all intrusions that may be attempted by white people; that all encouragement shall be given to you in your just pursuits and laudable progress towards comfort and happiness, by the introduction of useful arts: that all persons who shall offend against our treaties, or against the laws made for your protection, shall be brought to justice; or, if this should be impracticable, that a faithful remuneration shall be made to you; and that he will never abandon his beloved Cherokees nor their children, so long as they shall act justly and peaceably towards the white people and their red brethren.

This is all that he requires from you in return for his friendship and protection: he trusts you will not force him to recede from these determinations by an improper and unjust change of conduct, but that you will give him abundant reason to increase, if possible, his desire to see you happy and contented under the fostering care of the United States.

I send you by your beloved chief, the Glass, a chain; it is made of gold, which will never rust; and I pray the Great Spirit to assist us in keeping the chain of our friendship, of which this golden chain is meant as an emblem, bright for a long succession of ages.

H. DEARBORN, *Secretary of War.*

WAR DEPARTMENT, 7th July, 1801.

REDUCTION OF OFFICERS OF THE ARMY.

*Letter from the Secretary of War, in answer to a resolution of the House of Representatives, for reducing the officers of the army*

WAR DEPARTMENT, January 11, 1831.

Sir: At the last session of Congress a resolution was passed by the House of Representatives, directing the Secretary of War to report "whether any reduction in the number of officers in the army of the United States can be made without injury to the public service," &c.

The inquiry presented by this resolution is in reference

to the officers, not to the rank and file of the army; and that I should be enabled fully to answer it, inquiries, during last summer, were addressed to the principal officers at the different posts, that their opinions might be obtained, and their experience and observation availed of, upon a subject of so much importance.

A digest of the several reports received by the Major General has been communicated; but amongst them there is no general concurrence, by which any certain conclusion can be arrived at. In reference to the resolution, I am constrained, therefore, to offer such opinions and suggestions, as to the general state and condition of the army, as are the result of my own reflections.

While our regular force is small it is a consoling reflection, that it is in the power of this country to boast of a militia who breathe an ardent love of country, and who are ready to devote themselves to any emergency that circumstances may impose. There is no disguising the fact, however, that they are unskilled in military discipline, and hence incapable of those efforts which should render them valuable and efficient in war. To relieve against this, various attempts have been made. Efforts to give some uniform organization to this force have been essayed, but in vain. The same rule of discipline that might prove operative in one State may fail to be beneficial in another. The system is defective, and must continue so, until some more salutary plan than any yet devised can be adopted.

It occurs to me, (and I suggest it for consideration with great respect,) that, in peace, an organization of the army and militia should take place, based upon principles which look altogether to a state of war. In 1812 this country was thrown into a belligerent attitude, and the disasters at the commencement furnish a lesson which the intelligence of statesmen ought not to disregard. It will not do to be compelled to organize an army *ab ovo* in moments of pressure, and when the public safety is at hazard.

A preparation to be serviceable must take place when time and leisure afford the opportunity. All things being in readiness, should war ensue, a country has only to rely on the zeal, fidelity, and bravery of her citizens, and then every thing will proceed well. But the exercise of all these high qualities will prove of slender avail if the preparatory means for aiding and assisting them be wanting.

It is not the conceded policy of this Government to keep in service a large standing army, though its practice has always been to retain one to some extent. The economy which was practised in 1801 did not suggest the employment of a less force than three thousand men, which were under the command of a brigadier general. Now, our population and resources are three or four times greater than they were at that period of our history. The great desiderata to our army is, to elevate, in some way, the soldier's character, and to infuse proper feelings of pride. Inducements are wanting to allure to the service proper materials. Inasmuch as a soldier, by existing laws, is without the hope of rising above the grade of a non-commissioned officer, the attaining that grade ought to be rendered more desirable than it is at present, by having increased pay and emolument granted, with the privilege to the soldier, after a limited period of faithful service, to retire and become stationary at some vacant ordnance post, where his services could be had by the Government, and an adequate support afforded him. By such an inducement, meritorious men may be brought into the army service, each of whom, aided by proper officers, would be able to give valuable instruction in a few weeks to the militia that should be called out, or to new recruits, as they might be wanted. Properly inspired, every soldier might become a drill officer, the beneficial results of which, at the onset of war, would be sensibly perceived and felt.

The small military force we possess upon the present organization, is based upon principles which, if occasion should require it, may give rise to immediate and beneficial effects. The rank and file, as they stand in relation to the number of officers in command, are of skeleton form, and capable to be multiplied and considerably enlarged, should the circumstances of the country make it necessary. In an emergency, the number of troops might be doubled or tripled, thereby, with the present officers, in a short time, to bring into active and useful service a force of fifteen or twenty thousand men. This was the design had in view by the act of 1821, which reduced the army. Change the organization, and let some future necessity demand an enlargement, and a new recruit, both of officers and soldiers, will be required, the tendency and effect of which would be probable injury to the public service.

For reasons which have been often adverted to, the reliance of this country, in moments of difficulty, must be upon the militia; and the examples which past time presents afford an earnest that on this reliance we may safely depend. But while frequent instances have occurred to prove the value of this defence, that it is capable of high and daring gallantry, it should not be forgotten that, to render it still more efficient and valuable, the militia should be disciplined. To the attaining of this important object, the partial army we possess might materially conduce, when new recruits are wanted. Could we entertain a reasonable expectation that the country would continue at peace for any definite period of time, the propriety of disregarding, in the interim, military preparation, and pride, and feeling, would be questionable.

As it relates to the command of companies, no reduction and no organization of the officers, different from the present arrangement, can be advantageously made, except as to the supernumerary brevet lieutenants. In the annual report from the War Department, which accompanied the President's message, it is stated, that, in the ensuing year, perhaps, but certainly in the succeeding one, there will be one hundred and six lieutenants attached, by brevet appointment, to the army, while the number that may be taken into service, by regular appointment, cannot exceed twenty-two annually; consequently, there will be regularly and constantly in each year, eighty-four supernumerary officers not needed or required by the service, and which will occasion an annual expense of more than sixty thousand dollars to the Government.

With the exception here suggested, I can perceive no beneficial change that can be made as it regards the company officers, nor indeed any as it regards the regimental officers. In relation to these, the present organization is perhaps as perfect and complete as it can be rendered.

The officers retained under the reduction in 1821 were known to be proportionably greater than was necessary to the number of the rank and file upon a peace establishment; but the object of the organization was to present such a force, and under such circumstances, as that, in war, the greatest possible efficiency and activity might be attained at a short notice. But if these principles, then sanctioned, and so long acquiesced in, are to be departed from, and the object of the resolution be to organize the army upon a mere peace establishment, in reference to present exigencies, and without regard to the probabilities of war, and of danger, at some future period, then, by that rule of adjustment, it might, for our present service, be sufficient to place the army under the command of a brigadier general. By such an arrangement, one major general and a brigadier, with three aids-de-camp, could be dispensed with, and thereby a saving to the Government be created of more than fourteen thousand dollars a year.

In this view of the subject, the pay department might also be reformed to advantage, be rendered more serviceable, and less expensive than under the present system.

The law at present authorizes fourteen paymasters to be retained, which cost the Government annually about thirty-two thousand dollars. Not more than six appear to be necessary. The public business could, with that number, be better attended to, and at a saving of eighteen or twenty thousand dollars annually, to the country. The great distances which the paymasters of the army travel in visiting their posts, render the carrying of money hazardous, and occasion large expenses to the Government on account of their transportation. These inconveniences may be avoided by retaining a few of them to be arranged at different points, with a view to disburse the necessary funds to the subordinate agents at posts. Let a quartermaster or commissary, at the several posts where troops are stationed, have the trust confided to them of making payments to the troops, and the expense of eight paymasters and their clerks will be saved, and the public, by the arrangement, be better served. Instead of payment being made to the troops once in six months, as is the case now at some of the posts, it might be done monthly or weekly. The soldier will be better satisfied, and by having only small sums of money in his possession, will have less disposition to desert, and fewer facilities to enable him to do so. Should this suggestion be adopted, it might be necessary to authorize the Secretary of War to demand, from time to time, such bonds, and in such penalties, from the principal and subordinate paymasters, as the exigency of the service might seem to require.

By this arrangement there would be a considerable saving in the expenditures of the Government, even after making to the subordinate paymasters a reasonable compensation for their disbursements, if to grant any shall be considered advisable. But whether the number of paymasters be reduced or not, an authority should be given to the Secretary of War to appoint pay-agents at distant posts, and to place them under bonds for the faithful performance of their duty. The paymaster, for example, who is charged with the superintendence of the troops at cantonment Gibson, resides at Louisville, Kentucky. To visit this post once in two months, as the law requires, will make the transportation account alone nearly equal to eight thousand dollars a year. By an act of the last session of Congress, a post is directed to be established at Key West, not far from the island of Cuba. One company has accordingly been ordered there. Going to and returning from that post to Pensacola, (the residence of the paymaster,) will make his transportation account to constitute a considerable item in the course of the year; when, by the authority asked for, the payments may be as well and safely made (and at a trifling expense) through some selected officer of the company. The same remark is applicable to all our remote and distant posts. Transportation accrues to the paymasters and their clerks, and the expenses of a guard are oftentimes to be incurred, to give safe convoy to the funds in their possession. Subordinate agents being stationed at these distant places, by drafts, to be drawn on the principal paymasters, large expenditures, and particularly the risk of transportation, would be avoided.

The Surgeon General of the army might be dispensed with. He has no disbursements to superintend or make, no bonds to receive, no accounts to revise, or responsibilities to encounter. The principal and material duty to be rendered by him, is in the purchasing and distributing of medicines; a duty which is performed by a quartermaster of the army at New York, at which place medical supplies are obtained, and from which point they are distributed to the several posts.

The two Inspectors General of the army, it occurs to me, are not essential to the service, under a contemplated peace establishment. As these offices heretofore were executed, the incumbents were required to make secret, confidential, communications to the Department, of the

21st CONG. 2d Sess.]

*Reduction of the number of Officers of the Army.*

conduct of officers, together with the more general duty of reporting the situation of our posts, their condition, arms, and armament. It is not compatible with the dignity, the feelings, the pride, and character of an officer, to have private confidential reports made of him and his command, to be placed privately away amongst the archives of the office. There are some on file of former times, which, if rendered public, could not fail to produce strife and difficulty amongst individuals. Why inspect the conduct of an officer? Reliance must be had on his pride of character. He is unfit to command who deserves not implicitly to be confided in. If, in any thing required by law or regulation, an officer disregards or omits the performance of the trusts confided to him, remedies are at hand, and vigilance for their fulfilment, on the part of his associates, is seldom or ever wanted. The approach of an inspector to a post is nearly periodical. The officer in command can calculate with much accuracy as to the period of the visit, and can well arrange every thing to meet his arrival and the inspection. If disposed to do his duty, the inspector brings no benefit, produces no good. If careless of it, a few days of preparation will place him securely beyond any effect from the inquest.

Harmony is essential to the quiet and well-being of an army; and to this regard should be had, if one is to be retained. Strife and jealousy amongst different branches and departments of it should be avoided, if possible. Their consequences are disagreeable, and their tendency injurious to the public service. To effect so desirable an object, I beg leave to say, as matter connected with the subject of the resolution under consideration, that the administrative branches of the staff of the army should not be connected with the line of the army. The fancied ease and increased emolument which these offices afford, make them the cause of solicitude to those who obtain them, and of jealousy on the part of others, who are less successful in their applications. To avoid this, it has become an object with the Department, in the distribution, to equalize these appointments amongst the respective regiments, as much as possible. It might be preferable to separate them entirely; at least the experiment might be safely and advantageously essayed for the present, by some changed organization in the Ordnance Department.

In peace, or in war, this is a most important arm of our service. Through it are provided munitions of war to be in readiness in moments of danger, and by it are constructed the arms which are required for the defence of the country. Immense quantities (more than ten millions) of public property are in its possession and care. Officers, when composing a part of the army, in justice to themselves, to their own improvement in the lines, and that jealousies may be suppressed, should occasionally return to their commands. Changes must take place, and these changes affect the regularity of the system, and often occasion a waste of public property. A bill was introduced at the last session, which, if properly matured, and acted upon, would contribute to the efficiency of this arm of service, and to the public interest, and at the same time add but little, if any thing, to the present expenses of the army.

All of which is respectfully submitted.

J. H. EATON.

To the SPEAKER of the House of Representatives.

*Letter from the Secretary of War in reply to so much of the resolution of the House of Representatives of the 7th instant as relates to the Topographical Engineers.*

WAR DEPARTMENT, January 20, 1831.

SIR: In answer to that part of the resolution of the House of Representatives of the 7th instant, which relates to the topographical engineers, I have the honor to state:

That the topographical corps of the army is of great importance to the country. Recently, its operations have been confined to what may be considered civil purposes; to the surveying of practicable routes for roads and canals, and to the opening and improving of the navigation of our streams, bays, harbors, and inlets. These, seemingly, are all exclusively civil objects, although they are not so in reality, inasmuch as the information thus obtained, may be serviceably used hereafter in military operations. When war shall take place, the benefits resulting from the industry of this corps will be found of incalculable advantage. A knowledge of the relative positions of places, of their elevations and depressions, and of the advantages promised by their occupation, will remain in the War Office, ready, on proper occasions, to be turned to useful account.

The surveys which are now possessed are the work of this useful and valuable corps, and have been obtained by the industrious pursuit of its duties, through successive seasons. If the works to which they have reference should ever be undertaken, the results of those surveys are in readiness, and furnish the necessary data; if not, their value will still be perceived and felt in future military operations. A commanding general may carefully watch, and sedulously guard his army; yet, if he be a stranger to the country, and without information of its relative positions, and of the advantages to be derived from places to be occupied, he will but grope his way in darkness, and be vulnerable to an opposing officer who may have a better knowledge than himself of these facts. No general can operate successfully who is ignorant of the topography of the country, and of its assailable and defensible points, and of the various positions to be taken, which may benefit himself, or produce injury to an enemy.

In this country we have an extensive inland and maritime frontier, and for their security and protection much labor has yet to be performed. Our entire line of frontier, our bays, harbors, and inlets, should be carefully examined and surveyed. Points which are assailable, and the mode of defending these, with all necessary details, should be carefully looked into, and the information so obtained, treasured up with the archives of the country.

Under this aspect of the case, the classification of the duties to be performed by this corps, exclusively military, may be thus stated:

1st. Surveys of military positions for purposes of permanent fortifications.

2d. Surveys of our inland frontier, to ascertain the points best situated for defence, after what manner attacks may be made, and the best modes of opposing them.

3d. An examination of the seacoast generally, and particularly of all seaports, bays, and inlets, the avenues by which these may be approached, and the modes of protecting and defending them.

4th. The surveying of such military roads as may most advantageously connect the several military positions upon our inland frontier.

The foregoing remarks and statement of duties relate to the employment of the topographical engineers during a state of peace; but, in times of war, for which all its peace operations may be considered as preparatory, their labors become more exclusively military, and may be said to embrace the extensive range of duties of the field engineer, and for which their occupation in times of peace qualify them. They are a necessary appendage to every army, and, with propriety, may be called the eyes of the commanding general, and of the Government, as it is upon the results and labors of such a corps that all judicious plans of military operations must be based.

The addition to the present topographical engineers, and the organization required, and which is now recommended, are such as will form a corps, to consist of one colonel, one lieutenant colonel, two majors, ten captains, ten first lieutenants, and ten second lieutenants; which

numbers and organization are considered as requisite to meet the present military wants of the country.

All which is respectfully submitted.

J. H. EATON.

The SPEAKER of the House of Representatives.

### ACCOUNTS IN SUIT.

*Report of the Solicitor of the Treasury, of the accounts in suit on 4th July, 1830.*

OFFICE OF SOLICITOR OF THE TREASURY, Jan. 6, 1831.

SIR: In obedience to the directions of the "Act to provide for the appointment of a Solicitor of the Treasury," I have the honor respectfully to submit, for the information of Congress, the following report:

In the performance of the duty imposed upon the Solicitor, "to obtain from the several District Attorneys of the United States full and accurate accounts of all the causes and actions pending in the Courts of the United States, in which the United States were plaintiffs, on the 4th day of July, and to cause an abstract thereof, showing the names of the parties in each suit, the cause of action, the time of its commencement, and such other matters as may be necessary to full information respecting the same, to be prepared and laid before Congress," soon after I assumed the duties of that office, the circular, a copy of which is herewith annexed, and marked A, containing regulations for the observance of District Attorneys, Marshals, Clerks, and Collectors, was issued, and the several District Attorneys required to report the information called for by Congress. From their returns I have prepared three statements, of which the one marked B exhibits a report of the suits brought on Treasury transcripts; the one marked C exhibits a report of suits brought on custom-house bonds; and the third, marked D, exhibits a report of suits for fines, penalties, and forfeitures; all which were pending on the 4th day of July last.

The returns of some of the Attorneys did not contain "full information" respecting the suits in their districts. Several were little more than copies of the docket entries from the records of the Courts. These defects have in part been supplied, as it respects suits on Treasury transcripts, from the register of such suits transferred to this office from that of the Fifth Auditor of the Treasury; but the suits on custom-house bonds, and for fines, penalties, and forfeitures, not being under his superintendence, no register of them was kept by him; and of course but little information of those which were instituted prior to the 1st day of June last, is in the possession of this office. Such information, however, as it has been practicable to collect in these several classes of suits, in the short period since this office was established, is contained in the three statements above-mentioned.

From these, it appears that the amounts for which suits were pending on the 4th of July last, were as follows, viz:

On Treasury transcripts,	-	-	\$1,833,190 57
On Custom-house bonds,	-	-	1,248,686 82
Making a total of	-	-	\$3,131,877 39

The third class of suits, for fines, penalties, and forfeitures, being principally *in rem*, no accurate estimate can be made of their amount.

An amount more than three times as large as the above is probably due to the United States on judgments rendered previous to the 4th of July. With a view to collect information respecting the situation of debts of this description, a circular, a copy of which is herewith annexed, marked E, was directed to the several District Attorneys, requiring them to report what suits prosecuted to judgment remained unsatisfied, in which expectations were entertained of collecting a part of the whole amount of the debt; what process had been issued on such judg-

ments, and what returns had been made; what property, personal or real, was bound by such judgment; where such property is situated; in whose possession it was, either as executors, administrators, assignees, trustees, or otherwise; what were the nature and amount of the liens on such property, if any there were, prior to that of the United States; what was the prospect of recovering the whole amount, or any part of such judgments; what was the amount expected to be realised; what were the obstacles which have heretofore interposed, and which yet prevail, and the prospect of their removal; with all other matters important to be known at this office.

The information called for by these several inquiries, is believed to be essential to the efficient discharge of the duties of this office, so far as they relate to the collection of the outstanding judgment debts. To enable the District Attorneys to furnish it, tedious examinations of records, and frequent resort to the assistance of the clerks of the courts, are necessary. A great proportion of these judgments having been recovered before the present District Attorneys came into office, the legal fees, which, under existing laws, constitute the principal compensation to attorneys, have already been paid to their predecessors. It is manifest, therefore, as no commission is allowed for the collection of money, that, for the services of the present Attorneys, either in procuring the information I have called for in the last mentioned circular, or for further attention in enforcing the judgments, no remuneration whatever is provided. Several Attorneys have asked for compensation, and some of the clerks have refused their aid without an assurance that it will be made.

Some estimate of the importance of the subject about which information is sought, may be formed from the return which was, about a year ago, made by the United States' Attorneys in the several districts, in pursuance of an order of the President, of all the suits on Treasury transcripts. This return comprehended all suits of this description, in which judgments had been recovered by the United States, and remained unsatisfied in part or the whole, together with all such as were still pending.

The aggregate sum due upon them, was \$7,742,407 80. Suppose the amount of the suits pending at the period of that return, to be equal to that of the suits pending on the 4th day of July last, to wit:

1,776,526 96

And deduct it from the above-mentioned aggregate, and the balance on outstanding judgments on Treasury transcripts, will be

\$5,645,880 84

The aggregate amount of suits on custom-house bonds, including those which are pending, as well as those which have been prosecuted to judgment, was, on the 30th September last,

\$6,685,490 00

Suppose the amount due on suits on custom-house bonds pending on that day, to be equal to that of suits of the same sort pending on the 4th day of July last, to wit:

1,241,686 82

And deduct it from the above aggregate, and the balance due on bonds prosecuted to judgment, and remaining unsatisfied, will be

\$5,623,803 18

This last amount, added to that due on unsatisfied judgments on Treasury transcripts, to wit:

5,645,880 84

Will show the total sum of principal due to the Government on outstanding judgments, to be

\$11,269,694 02



To this sum may be added several millions for interest; but there ought also to be deducted from it a considerable amount, which consists of judgments against sureties on official and custom-house bonds. The foregoing view, however, though not exact, presents a sufficient approximation to the truth to demonstrate the importance of the subject it embraces.

No remuneration is provided by law to stimulate the zeal of the United States' Attorneys in the collection of this vast amount of debt. The legal fees in almost all the sums having already been paid to their predecessors in office, who instituted them, no inducement but a cold sense of unprofitable duty is left to excite them to exertion. A very great proportion of this mass of debt is due from persons and estates that are hopelessly insolvent. Still, however, it is believed that a large amount, which will otherwise be lost, might be gleaned, if an adequate inducement to encounter the labor of collecting the information called for, and to act vigorously and zealously after obtaining that information, were held out to District Attorneys, in the shape of a liberal commission on collections. It would seem peculiarly proper that the commissions now allowed to collectors of the customs for collections on bonds which are put in suit, should be transferred to the Attorneys, who have the labor and responsibility of making them. This arrangement, while it would create no additional expense to the public, would operate as a stimulus to vigilance and caution on the part of Collectors, in requiring such security as would prevent the necessity of resorting to litigation, and to a zealous discharge of duty by Attorneys, whenever litigation should become necessary. It is believed, also, that a true economy would dictate an allowance of commissions to Attorneys for collection in suits on Treasury transcripts, as well as on custom-house bonds; and that the increase of the sum, which would, in consequence of it, be brought into the Treasury, would be much greater than the amount of those commissions.

The foregoing remarks present an imperfect view of the prominent defects of the present system of collecting the public dues, when suit has become necessary; and the daily discharge of my official functions has so forcibly impressed them on my mind, that I have thought it my duty, in this report, respectfully to bring them to the notice of Congress, who alone have power to provide an adequate remedy.

I have the honor to be, with great respect, sir, your most faithful and obedient servant,

V. MAXCY,  
Solicitor of the Treasury.

To the Hon. the SPEAKER of the House of Representatives.

A.

*Circular from the Solicitor of the Treasury, with regulations to be observed by District Attorneys, Clerks of the Circuit and District Courts, Marshals, and Collectors of the United States.*

OFFICE OF THE SOLICITOR OF THE TREASURY,  
Washington, July 27, 1830.

SIR: I have the honor to transmit herewith a copy of an act passed at the late session of Congress, to provide for the appointment of a Solicitor of the Treasury.

On entering into the relations which that act has established between the Solicitor and the law officers and Collectors of the United States, I cannot but feel a deep sense of the responsibility connected with the superintendence of the multifarious and important concerns committed to my charge. Diffused as these concerns are throughout this widely extended Union, they cannot be managed in a manner satisfactory to the officers or parties concerned, or with a due regard to the interest of the Government, without the establishment and a punctual and exact

observance of regulations, which shall form a chain of responsibility, binding each officer to his duty, from the commencement of legal proceedings, throughout their various stages, till the execution of judgment shall place the public dues in the Treasury of the United States. In framing those which I now transmit, I have endeavored to consult the convenience of the several officers whom they affect, as far as is compatible with a just system of accountability.

It would be presumptuous in me to expect that, in the present organization of a new office, I have prepared a system without error, or that experience will not point out new checks or useful modifications and alterations. Such as your reflection and observation may suggest, if communicated, will be considered and examined with the utmost care and candor, with a view to the improvement and perfection of the system; but, until the regulations for the transaction of business now established shall be modified or rescinded, I cannot too strongly urge an exact observance of them. That the mutual dependence and propriety of the various parts of the system of checks now presented may be seen and understood, by being viewed together, I subjoin to this circular a copy of the regulations, established not only for your government, but for that of all the different officers, who must contribute their share of duty in accomplishing the object of the laws herewith transmitted.

I place much reliance for aid, in the discharge of my arduous duties, not only upon the talents and business habits of the law officers and collectors of the United States, but still more upon their cordial and hearty co-operation in devising the means of carrying into complete effect the great objects in view, the punctual payment of the public dues, and the prevention of frauds upon the Treasury; and I cannot doubt that a class of citizens so distinguished for high character, intelligence, and patriotism, will feel with me an ambition to demonstrate, by a faithful and efficient performance of our respective duties, the utility of our several offices, and their adaptation to promote the public weal. On my part it will be my first and strongest desire to reconcile a rigid and exact fulfilment of the laborious and responsible task prescribed to me by law, with such observance of comity and regard to the feelings of all with whom I am connected as shall ensure a continuance of the most cordial and respectful relations between us.

I have the honor to be, very respectfully, sir, your most faithful and obedient servant,

V. MAXCY,  
Solicitor of the Treasury.

*Regulations to be observed by the Collectors of the customs.*

1. Whenever a revenue bond shall not have been paid when it becomes due, you will, to use the terms of the law prescribing your duty, deliver it for suit to the District Attorney "forthwith and without delay," and will take triplicate receipts of the Attorney; one of which is to be forwarded by the first mail to this office, together with a full and exact description of the date and amount of such bond, and of the time when it became payable, and the names of all the obligors thereto; one to be sent with your first quarterly returns thereafter, to the first Auditor of the Treasury, and the other to be retained by yourself. If any part of the bond have been paid, the amount of such payment, and the time when made, must be stated. That the reports of the several Collectors may be uniform, I have sent you a form for them.

2. Whenever any obligor of a bond put in suit shall, before execution is delivered to the marshal, pay the whole or any part of such bond to you, you will give him triplicate receipts, one of which is to be retained in his own hands, and the other two to be delivered to the District Attorney; one of them to be filed as his authority for

giving the necessary credit on the bond, and for making the proper entry on the docket, and the other to be forwarded to this office, as the voucher upon which he is to be discharged from responsibility.

3. In like manner, you will give to the District Attorney triplicate receipts for money which he may pay you from the defendant, in discharge of bonds in suit, and specify therein particularly the object for which the money is paid.

4. Whenever, after execution is delivered to the Marshal, he shall pay you a part or the whole amount of the judgment, you will deliver to him triplicate receipts, that he may retain one himself, forward one as a voucher to me, and send the other with his regular return to the first Auditor of the Treasury, to be filed in his office.

5. In compliance with the duty prescribed in the fourth section of the above mentioned act, whenever you shall cause a seizure to be made for the purpose of enforcing any forfeiture, you will, by the first mail, give information thereof to the Solicitor of the Treasury.

*Regulations to be observed by District Attorneys.*

1. Whenever a bond shall be transmitted or delivered to you for suit by any Collector, you will give him triplicate receipts, and "forthwith and without delay" institute suits against all the parties thereto. By the first mail afterwards, you will transmit information thereof to the Solicitor of the Treasury, together with a full and exact description of the date of such bond, the amount due thereon, the time when it became payable, and the names of all the obligors. I send you herewith printed forms of these returns.

2. In like manner, whenever a transcript of the accounts of any delinquent public officer, certified by the First or Second Comptroller of the Treasury, shall be forwarded to you for suit from this office, you will immediately commence suit thereon, and by the first mail give information thereof to the Solicitor of the Treasury.

3. You will, also, when any suit or action for the recovery of a fine, penalty, or forfeiture, shall be instituted, immediately transmit to this office a statement of such suit or action, specifying the name of the defendant, the cause of the action, the time of its commencement, with such remarks as are necessary to the full understanding of the same.

4. Whenever any obligor of a custom-house bond shall desire to discharge part or the whole of his debt previous to judgment, you will request him to pay the money to the Collector who delivered the bond for suit, and to take triplicate receipts therefor. Two of these receipts you will require him to deliver to you; one to authorize you to give him credit for the amount thus paid on the bond, and to be retained by you; the other you will transmit to the office, to serve as my authority for giving you credit, and discharging you from responsibility. If, instead of paying the money to the Collector, as requested, he should make a tender of the whole amount due the Government to yourself, you will receive the same; forthwith deposit it, to the credit of the Collector who delivered you the bond for suit, in the Bank of the United States, or an office thereof, or some other bank authorized to receive Government deposits, and take triplicate certificates of such deposit from the cashier, designating the object for which the payment was made. One of these you will retain yourself; one you will transmit by the first mail to this office, as a voucher for your release from responsibility; and the third you will deliver or forward by the first mail to the Collector from whom the bond was received. If there be no bank near in which Government deposits are made, you may, if more convenient, pay the amount to the Collector who delivered the bond for suit, and take triplicate receipts from him, designating the object for which the payment was made. One of these receipts you will

retain yourself; one you will transmit by the first mail to this office, as a voucher for your discharge from further responsibility; and the third you will forward by the first mail to the First Auditor of the Treasury, to be placed on file by him, and to be preserved as a check in the settlement of the Collector's accounts. You will direct him to pay the costs to the Marshal, and take duplicate receipts. On the defendant's delivering one of these receipts to you, in addition to the Collector's receipt for, or the payment to yourself of, the whole amount due to the United States, you will make such entry on the docket as shall be necessary for the discharge of the defendant.

5. Whenever any defendant to a suit, other than upon a custom-house bond, whether for debt or a fine, penalty, or forfeiture, is desirous of paying a part or the whole of the demand against him previous to the delivery of execution, you will request him to deposit the money, or such part thereof as belongs to the United States, in the Bank of the United States, or some office thereof, or some other bank authorized to receive deposits for the Government, to the credit of the Treasurer of the United States, take triplicate receipts or certificates of the cashier, designating the object on account of which the payment is made, and deliver two of them to you, upon which you will give them the necessary credit; and on his producing to you, in addition thereto, the receipt of the marshal for costs, you will make, according to the circumstances of the case, the entry on the docket necessary for the security or discharge of the defendant. You will retain one of the certificates of deposit to the credit of the treasurer, and the other transmit to me by the first mail. On the receipt of it, the necessary entry will be made upon the books of this office, to release you from responsibility.

If the defendant, instead of making deposit in bank, as above mentioned, should make a tender of the whole amount due to the United States to you, you will receive it; forthwith deposit it in the Bank of the United States, or an office thereof, or some other bank authorized to receive the deposits of the Government, to the credit of the Treasurer of the United States, and take triplicate certificates of deposit of the cashier, designating the object for which the payment is made. One of these you will, by the first mail, transmit to this office, as a voucher for your release from responsibility; one you will send by the first mail to the Auditor in whose office the transcript on which suit was brought was prepared; and the third you will retain yourself.

6. Whenever a suit shall be prosecuted to judgment, you will deliver execution to the marshal, unless there be, in your judgment, good reasons for delay, such as the hopeless insolvency of the defendant. Whenever execution is thus postponed, you will report the case to this officer for instruction. Whenever you deliver execution to the marshal, you will take duplicate receipts: one of them you will retain yourself, and the other you will send by the first mail to this office, as a voucher for your release from responsibility.

7. You will, immediately after the end of every term of the District and Circuit Courts, or of any State Courts in which any suit or suits may have been instituted on behalf of the United States, forward to this office a statement, (which the law requires to be certified by the clerk,) of such cases as have been decided during the term, and such as are pending, together with all the information which may be necessary for understanding the true situation of each case. Your statement will be sent in two different forms, one to contain the suits brought on treasury transcripts, and the other on custom-house bonds, and for fines, penalties, and forfeitures. Printed forms for these returns are herewith sent.

8. In all cases in which an appeal is taken, or a writ of error is sued out, you will cause to be transmitted to this office, with as little delay as may be, a transcript of the

record, which you will examine with a view to ascertain that it is a faithful copy, and will accompany the same with a report of the argument of the cause in the court below, noting the points made and authorities referred to by the respective counsel.

I take leave to call your particular attention to the eighth section of the act sent with the circular, by which, in addition to the return after each term, you are required to transmit to this office "full and accurate accounts of all causes and actions pending in the courts of the United States" in your district, "in which the United States are plaintiffs, on the fourth day of July" of the present year, in such a manner as shall enable me to prepare an intelligible abstract of all such causes, showing the names of the parties in each suit, the cause of action, the time it accrued, the time of the commencement of the suit, and such other matters as may be necessary to full information to Congress respecting the same. As this abstract must be laid before Congress at the commencement of the next session, it is necessary that your return should be made on or before the tenth day of October next. The forms sent for your statement at the end of each term of court will answer the purpose of this report. Be pleased to state, in a very distinct manner, the cause of action, and let your observations in the column of remarks be full, so that the object and situation of each suit may be clearly understood.

*Regulations to be observed by Clerks of the Circuit and District Courts of the United States.*

1. Hereafter, you will forward to this office, within thirty days after the adjournment of each successive term of the District and Circuit Courts, respectively, of which you are clerk, a list of all the judgments and decrees which have been entered in the said courts, respectively, during such term, to which the United States are parties, showing the amount which has been so adjudged or decreed, and the costs, and stating the term to which execution thereon has been made returnable. You will divide the list into two parts, to be sent in two separate forms, one to contain the judgments rendered in suits brought on Treasury transcripts, and the other on custom-house bonds, and for fines, penalties, and forfeitures. I send you printed forms for these returns.

2. You will examine the statement required by the third section of said act to be made by the United States' Attorney for your district, and, comparing it with the records in your charge, and finding it correct, you will thereto subjoin your certificate.

*Regulations to be observed by Marshals.*

1. Whenever, before judgment, any defendant to a suit of the United States shall pay you the costs which have accrued, you will give him duplicate receipts, one to be kept by himself, and the other to be delivered to the District Attorney.

2. Whenever, in any suit in which the United States are plaintiffs, the District Attorney shall deliver a writ of execution to you, you will give him duplicate receipts, in which you will state the names of the parties, the amount of the judgment and costs, with the time from which interest accrues, one of which receipts is to be kept by him, and the other to be transmitted by him to this office as a voucher, upon which an entry is to be made to release him from further responsibility, and to charge you. You will, moreover, by the first mail, after execution in any case shall be delivered to you, transmit information thereto to this office.

3. Whenever the judgment has been rendered in favor of the United States on a custom-house bond, and the execution has been issued and satisfied by the defendant, you will give him a receipt therefor. You will immediately thereafter pay over the amount of the judgment to the Collector who delivered the bond for suit, and take tripli-

cate receipts therefor, in which the parties are to be stated, and the amount of the judgment. One of these receipts you will keep for your own protection, one you will transmit to this office, as my authority for making such entry on its books as will discharge you from further responsibility, and the other you will transmit, with your regular accounts, to the First Auditor of the Treasury, to be filed as a check in the settlement of the Collector's accounts.

4. Whenever execution shall have been delivered to you upon a judgment for any other cause than a custom-house bond, and you shall have collected the money of the defendant, you will forthwith deposit the amount belonging to the United States in the Bank of the United States, or one of its offices, which may be nearest you, or any other bank, if nearer to you, which is authorized to receive Government deposits, to the credit of the Treasurer of the United States. You will take duplicate certificates of deposit from the cashier, designating the object for which the money is paid, one of which you will retain yourself, and transmit the other to this office, as the voucher upon which you will be discharged from further responsibility.

5. Hereafter you will make the returns required by the eighth section of the act of May 15, 1820, for the better organization of the Treasury Department, to this office, in which you will state the proceedings which have taken place upon all writs of execution or other process, which have been placed in your hands for the collection of the money which has been adjudged and decreed to the United States in said courts respectively. I send you printed forms for these returns. You will make these returns in two separate forms, one for executions issued on judgments in suits brought on treasury transcripts, and the other on custom-house bonds, and for fines, penalties, and forfeitures.

REPORT ON MANUFACTURES.

HOUSE OF REPRESENTATIVES, JANUARY 13, 1831.

Mr. MALLARY, from the Committee on Manufactures, to whom was referred so much of the President's message "as relates to the tariff of duties on imports, and so much thereof as respects manufactures," reported:

That they have taken this delicate subject into full consideration. This was due alike to the source from whence a review was recommended, and to the importance of the subject itself. They feel confident that they have done it without mingling with the operation of their reasoning powers, unreasonable "likes and dislikes," either to the system of protecting domestic industry, or to the views expressed by the Chief Magistrate.

It is not the intention of the committee to present to the House a mass of statistics or labored arguments, in favor of the protecting system. In the recent discussions of the tariff, all that could illustrate theory, or be proved by experience in our own and other countries, has been presented. Our Government has adopted and endeavored to sustain, by repeated legislative enactments, a policy which has had the sanction of Washington, Jefferson, Madison, and Monroe. It has been sanctioned by "the continued acquiescence of the States, and the general understanding of the people." Confidence in its permanent duration is warmly inspired. It is this alone which can give it vigorous and successful action. A system of protection may appear perfect in our statute books, and yet be useless to the country, if exposed to perpetual danger. Skill, already matured, will not venture upon uncertainty. The power of invention will never be exerted, if it has no confidence in the promise, and repeated promise, of support. Capital will never come to the aid of skill and enterprise, if it has no security for investment. It must have confi-

dence, it must find solid honesty in individuals, as well as firmness in Government, or it will not be employed.

During the last session of Congress, the declaration was often repeated, that the system of protection should and would be maintained. It was presumed to have come from the people, and dictated by them to their representatives. This was expressed by the most decisive majorities in Congress, on repeated occasions.

Its effects, so far as they have been developed, have answered the hopes of its most ardent friends. Capital flows widely and freely through our extended country. The genius of our people has been stimulated to greater and more diversified exertion. The useful arts are improving in every form that stern necessity or elegant taste may desire. The committee most cheerfully concur with the President in the animated view which he has taken of the condition of our country. They adopt his language in describing that condition. "With a population unparalleled in its increase, and possessing a character which combines the hardihood of enterprise with the considerateness of wisdom, we see in every section of our happy country a steady improvement in the means of social intercourse and correspondent effects upon the genius and laws of our extended republic." This is the language of truth and justice. It forms a subject of high and deep congratulation to every patriot mind. While other nations are suffering under oppressive burthens, or convulsed with bloody revolutions, we witness among ourselves, in general, a calm and confident repose. We see over all portions of our broad country prosperity and happiness most equally and evenly diffused.

Such is the prospect before us. It is the offspring of our fortunate Government, and the wise policy which has been adopted of cultivating our own resources, by the skill, and industry, and enterprise of our own people. In considering that imperfection must be stamped on the highest and best of human institutions, it is matter of surprise, "that the apparent exceptions to the harmony of the prospect" are so few. They seem to arise rather from the exercise of fervid imagination, than from evils which really exist. It cannot, however, be expected that any code of laws, or any form of government, can dispense *precisely* the same benefits to every individual under their influence, wherever he may reside, or whatever may be his genius or pursuits. Nature herself has failed to do this. But, when we see a great nation moving on with stately steps, unimpeded, to the height of happiness, opulence, and grandeur; when every portion, however minute, partakes amply of general prosperity, it would seem that the "apparent exceptions to the harmony of the prospect" might be permitted to melt down in warm felicitations, that the "prospect" of our whole country is so nobly gratifying. It is to this wide and comprehensive prospect that we may safely look for substantial reasons to preserve that Union, which it is "most devoutly hoped may prove imperishable."

The committee are much gratified to have the opinion of the President, clearly and fully expressed, that the tariff for protecting domestic industry is constitutional. They think it proper to quote language so clear and unequivocal. He says, that "the power to impose duties on imports originally belonged to the several States. The right to adjust those duties with a view to the encouragement of domestic branches of industry, is so completely incidental to that power that it is difficult to suppose the existence of one without the other. The States have delegated their whole authority over imports to the General Government, without limitation or restriction, saving the very inconsiderable reservation relating to their inspection laws. This authority having thus passed from the States, the right to exercise it for the purpose of protection does not exist in them; and, consequently, if it be not possessed by the General Government, it must be extinct. Our political system would thus present the anomaly of a people stripped of the

right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely cannot be the case: this indispensable power, thus surrendered by the States, must be within the scope of the authority on the subject expressly delegated to Congress." The committee would recommend this argument to the candid consideration of the House. Most especially would they invite to its calm consideration those of our fellow-citizens who honestly believe that a protecting tariff violates the constitution. If there are any who have become regardless of the rights, interests, and welfare of the great majority of the nation; who are determined that all shall yield to their opinions; who insist that they are infallibly right, and every one else is absolutely wrong; on such, reason and argument can have no influence. Still, the cause which enables our Chief Magistrate to give us such a glowing view of the prosperity of our country as he has done, must and will continue. The States, in their sovereign capacity, as expressed in the message, and cannot be denied, had the original power of imposing duties on imports. It is now transferred to the Government of the Union, in the most ample manner. Had the States retained it, they must have exercised it as they pleased, to accomplish any object they deemed proper. It might have been for revenue alone. It might have been employed *solely* to counteract the selfish policy of other States or nations. It could have been exercised for any purpose which suited the pleasure of sovereign power. But the States have delegated their whole power over imports to the United States. It would indeed be a strange anomaly if it could not now be exercised by the Government to which it has been transferred, as fully as it could have been by the States from which it was derived.

The President has declared, that, "while the *chief* object of duties should be revenue, they may be so adjusted as to encourage manufactures." It seems to the committee that this remark is in plain collision with the sentiments which he has previously maintained. He has observed that the authority to impose duties on imports, having passed from the States, "the right to exercise it for the purpose of protection does not exist in them." If it is "not possessed by the General Government, it must be extinct." "Our political system would thus present the anomaly of a people, stripped of a right to foster their own industry, and to counteract the most selfish and destructive policy which could be adopted by foreign nations." If revenue alone is wanted, duties for that object should be imposed. If protection to domestic industry is required, let duties be imposed to "foster it." Why should the *chief* object be revenue—why protection *secondary*—when the Treasury may be full? Many now apprehend that our revenue is, and will be, too abundant. But protection "against the most selfish and destructive policy of foreign nations" can be secured by duties on imports. By them alone. Then they should be adjusted to secure protection. This should be the *primary* object. The protecting power having once belonged to the States, and now transferred to the General Government, it may be used, as the good of the nation demands, for a primary, not a secondary, object. It ought not to be loosely attached to the skirts of revenue. Domestic industry is a single, great, even pre-eminent, interest of the nation. It has been intrusted to the guardian care of the constitution. It now demands the exercise of that power, which the States have surrendered, for its promotion and preservation.

The President, in his message, further observes, that, in the adjustment of protecting duties, the Government should "be guided by the general good." As an abstract proposition this may be admitted. The general interest is the interest of each; and it is only necessary that that interest should be understood to ensure the cordial support of some who think "it encourages abuses which ought to be corrected, and promotes injustice which ought

to be obviated." He also advises Congress that objects of national importance ought alone to be protected. Of these, the productions of our soil, our mines, and our workshops, "essential to national defence, occupy the first rank. Whatever other species of domestic industry, having the importance to which I have referred, may be expected, after temporary protection, to compete with foreign labor on equal terms, merit the same attention in a subordinate degree." Suppose the opinion to be correct, "that objects of national importance ought alone to be protected," what then? The President has not, by this general expression, afforded the least aid in adjusting the details of a protecting tariff. If the action of Government could be confined to abstract rules and principles, little difference of opinion would probably exist in the nation. The great embarrassment is found in making an application of excellent theory to practical and useful purpose. The protecting system, the tariff, is composed of humble items. These, united, make up the great mass of national industry. Had the President been pleased to designate a few items only, which he supposed to possess "national importance," or had he pointed out what "comforts of life are taxed unnecessarily high—what are the interests too local and minute to justify a general exaction, which it undertakes to protect, and what kinds of manufactures for which the country is not ripe, it attempts to force," we should then have the light and benefit of illustration.

General theory may be adopted with perfect unanimity. Its application to real use, its coming down to the every day exertion of our farmers and mechanics, is a different affair. Under general theory, any one can make a retreat and maintain that it has been done with consistency and honor. Theory is best explained by its application to the axe, the plough, the hammer, and the spindle. The Chief Magistrate presides over a people, who are engaged in unceasing and untiring industry. Congress has for years, and on repeated occasions, exercised its wisdom on the tariff. Its best efforts have been made. If errors exist, it would seem reasonable to expect, that the Chief Magistrate, looking abroad from his high station over all the interests of the country, and observing their mutual relations and dependencies, should intimate to the representatives of the people, what particular business of life has been too warmly cherished—what too coldly neglected. In adjusting the details of the tariff, Congress has done what it deemed best for the general good. To reach the employments of life, it must go down to particulars. If the President is still dissatisfied, it might have been hoped that he would have designated the precise error. It will always be borne in mind, by practical men, and they compose the mass of the nation, that abstract theory, however splendid, does but little good, unless it comes to the aid of every muscle of labor. In what consists the defect of the existing tariff? Individuals may discover imperfections, but the collected wisdom of the nation has repeatedly declared that material change is not demanded. Nothing better, under existing circumstances, can be done. Then let doubt and uncertainty be avoided. They are evils next to the surrender of the whole system.

The message advises Congress that "objects of national importance alone ought to be protected; of these, the productions of our soil, our mines, and our workshops, essential to national defence, occupy the first rank." It is to be presumed that Congress has not been unmindful of productions "essential to national defence." But the President says, "the present tariff taxes some of the comforts of life unnecessarily high." They are not defined. In the minds of many, what might be essential to national defence, might also promote the comforts of life. If the message meant only guns, powder, and bullets, difference of opinion, even then, might exist, as to the extent of protection which ought to be afforded to the various elements of which they are composed. Its practical mean-

ing is, therefore, obscure. Iron, it is presumed, would be considered essential to "national defence," and, being the product of "our mines," should be protected. But that protection which would produce the material for a musket would also furnish it for axes and ploughs. A duty that would give us domestic bullets, is all that might be required to supply the country with domestic lead for every use. But are muskets, and powder, and bullets, all that may be essential to "national defence?" An army might be most abundantly provided with these, and yet be totally inefficient in the field, if it wanted hats, and coats, and shirts, and shoes, and blankets. The condition of our country, during the last war, furnished a well defined illustration of this sentiment. Various manufactures, then, were considered of national importance, which the doctrines of free trade now erase from the catalogue. But a duty imposed for promoting the domestic manufacture of these articles, for military purposes alone, would be an anomaly in the annals of any nation. That protecting policy which could supply the wants of an army in war must be allowed to operate in peace. Hence the difficulty of any classification of interests, while all are distinctly and equally governed by the same great constitutional power derived from the States. It is also to be remembered that peace with the world is the natural condition of this country. It is not the foreign bayonet that we have the most reason to apprehend: it is the "selfish and destructive policy which might be adopted by foreign nations." To guard against this is an object of "national importance." For peace or war the protecting policy is equally adapted, and it is believed by the committee that the best preparation for national defence may be found in the rigorous cultivation of the arts of peace. Our people ought not to be perpetually dependent on orders in council or decrees of emperors. Our country ought not to wait, until invasion surrounds it, and then beg blankets from invaders to warm a shivering army, engaged in "national defence."

The President alludes to another species of industry having the importance to which he before had referred, and which may be expected, after "temporary protection, to compete with foreign labor on equal terms." This species of industry, in his opinion, merits "the same attention, in a subordinate degree," while, in speaking of objects "essential to national defence," he prescribes no limitation, either as to the extent of protection or its duration. The other class he considers entitled to the "same attention," yet qualified by the expression, in "a subordinate degree." This qualification seems to render it difficult, if not impossible to ascertain the extent of the rule which he has adopted for his own action, and the guidance of Congress. Instead of opening a luminous pathway, in which all branches of the Government may move on in unison and safety, new embarrassments appear to be added to those already encountered by Congress in adjusting the detailed provisions of the tariff. It would seem to be the meaning of the President, that, after a temporary protection has been extended to a manufacture for a reasonable period, if it "cannot then compete with foreign labor on equal terms," it does not merit protection. This doctrine has been repeatedly advanced in Congress, and the committee presume it to be the doctrine of the message. But it will not stand the test of experiment. Prior to the late war, the coarse muslins consumed in the United States were imported from India, and cost the consumer about twenty-five cents the yard. By the war the supply was cut off—our cotton mills began to move, and a partial supply was furnished. At its close, when the India cottons were again imported, most of these establishments were ruined. By the tariff of 1816, establishing what was called the minimum duty on coarse cottons, the home market was effectually secured to our home manufacturers. Under its fostering influence they have flourished and



multiplied; and such have been our improvements in skill, and labor, and machinery, that the consumer, instead of paying twenty-five cents, now purchases at home a much better article for eight cents the yard. Large exportations of them are made to foreign countries. They are carried to India, China, and South America, where they are sold to advantage. But suppose the protecting duty withdrawn, and the American manufacturer left to "compete with foreign labor on equal terms." Admit the cottons of India, England, and Scotland, and what would be the effect? Within two years not a single cotton mill in the United States would be in motion. The immense capital invested in them, amounting to many millions, would be utterly sunk to the country, and their owners irretrievably ruined. And why? Not because we cannot make goods as cheap as in Manchester and Glasgow, but because a war would be waged by British capital against American capital—a war of extermination. Such a war has been waged upon every article of American industry, whenever the protecting duty has been inadequate, or the law extending the duty so framed, that mercantile cupidity and the cunning of foreign manufacturers could evade it.

There is another rule laid down by the President which the committee have thought proper to examine. It is contained in the expression that "objects of national importance alone ought to be protected." The committee will not here enter into a discussion of the question whether Congress may not protect objects local in character. The States, in their original independence before the adoption of the constitution, could have used the power of imposing duties on imports for the express purpose of protecting local objects, according to the doctrine entertained by the President, in which the committee fully concur. The several States no longer possess that power. Where is it? Where has it fled? On what shelf is it laid? The Government of the Union possesses it, or it has become "extinct." If an object did present itself, purely local in its character, and its protection was demanded by the prosperity and happiness of a single State, and this could be best done, or done only, by the delegated power from the States to impose duties on imports, it should be well considered, before Congress rejected a proposition for that purpose. The discussion of this subject, at this time, is not intended. It may, however, be intimated that it is the duty of the General Government to protect every State, county, and town, in the Union from invasion. The Government of the Union is bound to protect every inch of our soil from a hostile bayonet. It has equal power to protect every finger of domestic industry against foreign competition. Let it be firmly exercised. It matters but little to real national independence, whether foreign guns or foreign labor conquer us. However this may be considered, it is fully believed by the committee, that the present tariff, taken together, or in the minutest detail, is national in its character, although the language of the President may seem to imply, that, in this respect, it is defective. He has also told us in his message, that, "it is an infirmity of our nature, to mingle our interests and prejudices, with the operation of our reasoning powers, and attribute to the objects of our likes and dislikes, qualities they do not possess, and effects they cannot produce," that our deliberations on this interesting subject should be uninfluenced "by partisan conflicts," and should not be made subservient "to the short-sighted views of faction." The committee have a due regard both to the admonition and the sentiments expressed by the President; and they also entertain a most ardent hope, that our fellow-citizens will keep a steady, searching eye on every movement of political ambition, in whatever quarter of our country it may appear. It may speak well and pleasantly to the public ear, in favor of a national protecting system, and yet, with a calm, fair, honest-looking countenance, scatter such mysterious, yet captivating doubts, as to the value of

its different provisions, that "small minorities" may be taught how to form a "combination" to overthrow it.

What gives national importance to an object, or production of domestic industry? How is its national importance discovered? Whence derived—by what principle decided? Is it the place of production in the United States; that imparts to it the character of "national importance?" Must production be found in every narrow subdivision of the country? Must it, of necessity, be "general, not local?" Should the answer be in the affirmative, the concentrated wisdom of the nation would never provide a protecting tariff. Our various soils, our different climates, our diversified objects of industry, would present an impassable barrier against the adoption of any system of protection. The farmer who grows wheat, asks the aid of Government to protect that article. He knows that Poland, Russia, the Barbary States and France, may furnish, at times, wheat cheaper on the seaboard, than he can afford it. When he asks protection, an objection is made. Some portions of the Union do not produce wheat. Its production is not general. It must be rejected. Butter and cheese are presented for protection. Our farmers can produce them in abundance. The Irish tenant, who subsists on the humblest fare that unfeeling oppression deals out, may furnish them cheaper than the cultivators of our soil. Yet it is discovered, that portions of our extended country are unable to produce butter and cheese. They cannot be protected. They are "local" and not general.

Iron is named. This is indispensable in peace and war. It may, perhaps, be for a time, furnished by boors and serfs, laboring under the command of Russian and Swedish nobility, a little cheaper than the Pennsylvania and New Jersey forgers can produce it, and live as independent citizens ought to live in a free country. But iron is a "local object, not general." It must be rejected.

Hemp is named, an article so valuable to the independence of all branches of the navigation of our country. The strong arm of protection holds foreign navigation away from our domestic trade. It should unfurl American canvass with delight. It should also be well kept in mind, that the great body of American consumers of foreign productions sustain navigation engaged in foreign commerce. The splendid ship that carries and brings is still subordinate to the interests of those who buy and use, and pay for the cargo. The merchants on our seaboard may heap up wealth, build palaces, command the luxuries of life, but they must well keep in mind, that they all owe their prosperity to the strong arm of labor; they owe to the daily toil of our yeomanry, whether engaged in subduing the summits of the Green mountains, or cultivating the glens of the Allegany. Let, then, the hemp of Ohio, Kentucky, and Tennessee, be protected. Let the people of those States have a share in the advantages of that policy, which they are willing to defend. If it has so happened, that navigation engaged in our foreign trade, is suffering from foreign competition, it is owing to itself. All which it asked for protection was freely granted. When it had gained such an ascendancy, as it supposed would enable it to challenge foreign competition, it triumphantly told the Government that protection was no longer wanted. Hence treaty after treaty has been concluded for reciprocal navigation. This was urged by the advocates of free trade. If now it is a little crippled, if other nations supply us with a little more navigation, is it a greater evil than if foreigners supplied us with a little more iron, or hemp, or sugar, or cotton, or woollens? Must the great system of protection be abandoned, because navigation has been indulged in its wish and has been somewhat disappointed? The advocates of free trade ought rather to rejoice that our interest is free from the fetters of protection.

If foreign nations can build ships cheaper than the people of the United States, why not cheerfully employ them? According to the doctrines of free trade, so much

would be gained. But yet if navigation wants assistance, there is every reason to believe that the power which protected its infancy, if desired, will come cheerfully again to its support, in every way and by all means consistent with the great interests of the country. But hemp is a "local not a general" production, and must, therefore, be rejected.

Sugar is proposed. It is an article of necessity, comfort, and luxury. It cannot be produced in Maine or Pennsylvania. Its production must be confined to the warm region of our country, where the great staples of other ports are uncongenial. But it must be rejected according to the rule. Its production is local—not general. The same may be said of cotton and wool, of every article named in the tariff. The greatest and most valuable productions of domestic industry are more or less local in their origin—not general. Hence, if the rule is, that every portion of the country must alike contribute to the production of an article, which the constitution will allow to be protected, there never can be a protecting tariff at all; human wisdom could not devise one which would confer the least benefit on the country.

The rule that any particular object of domestic industry must possess "national importance," to entitle it to protection, may be safely adopted, if properly understood and applied. A broad view might be taken of the condition of the country, of its productions, of its various business, of its perpetually blending and mingling interests. We must see the mutual relations which exist between the narrowest sections of our country, and ascertain how widely and generally the various productions of domestic industry are distributed amongst the people. We should ascertain, for the practical purpose of legislation, what articles of domestic production, great or small, may be required for general use; what articles the people want; what their comfort and convenience demand; what articles are gathered up and distributed by the trade, business, and commerce of the country. The names of the articles may be humble—it may be broadcloths, wood-screws, thimbles, bar iron, steam-engines, or the fabrics of cotton. But, whatever its name, the right of protection must be considered with reference to the great principles before mentioned.

By these principles, it is believed, the present tariff can be fully sustained.

The President has advised Congress, that the tariff is considered, by almost all, as defective in many of its parts. Suppose this correct, it is proposed to inquire whether greater perfection can be attained. If so, how? The President has left Congress unadvised. The Representatives of the people have recently, after their maturest deliberation, come to their best result. The details may be imperfect. As a system, it "works well." Those whose interests are involved are generally satisfied. It is a subject of so much delicacy, that "it should be touched with the utmost caution."

The committee must be fully convinced that improvements can be made, or they cannot, with a proper respect to the "extended interests it involves," hazard an effort. Such is the "infirmity of our natures," that the enemies of the protecting system would rejoice to have the benefit of little "likes and dislikes," to aid them in their attacks. The President also expresses his opinion, that "the effects of the present tariff are doubtless overrated, both in its evils and advantages." The committee are confident that its evils are most unreasonably "overrated." Its advantages are so manifest, that they have been, in the estimation of many, too greatly undervalued. The President advises us, that the decreased price of raw materials, manufactured articles, provisions, and lands, arises from a cause "deeper and more pervading than the tariff of the United States." He supposes "it may, in a measure, be attributable to the increased value of the precious metals."

The committee are unable to say how far this remark

may apply to other countries. As applied to this country, it is clearly erroneous. Appreciation in any commodity, gold, silver, corn, or lumber, depends, in a great degree, on abundance or scarcity. If currency, whether composed of silver, gold, or bank notes, is plenty, the nominal price of all articles required for general consumption will rise, because the owners of currency must use it for profit. The greater the plenty, the more it will be used. In such case, less profit will satisfy. This cause enhances the price of every thing that currency purchases; for it must and will be employed. The precious metals are the base of our national currency. Our commercial operations are filled with them. Exchange on foreign nations was never lower; and if it seems to be against us, it is only because we have, by law, established a relative value between silver and gold, which the rest of the world will not adopt.

It cannot, therefore, be supposed, that the "reduced price" of domestic productions is caused by "the increased value" of the precious metals. It is to be attributed to domestic competition, and to an addition to the great supply of the world; and that the advance of the price of cotton, and the steady support of "other agricultural products," is owing to the diversified employments encouraged by the protecting system. Had the precious metals "increased in value," the benefits of the tariff would have been far more conspicuous. Prices would have been lower still. The tendency of such opinions of the President, as to the cause of the low prices of domestic manufactures, is to excite prejudice against the protecting system; to render it, in the estimation of our fellow-citizens, an object of little importance. The error of such opinions the committee consider it their duty to expose.

The President has informed us, that "the best, as well as the fairest mode of determining, whether, from any just considerations, a particular interest ought to receive protection, would be to submit the question singly for consideration. If, after due examination of its merits, unconnected with extraneous considerations—such as a desire to sustain a general system, or to purchase support for a different interest—it should enlist in its favor a majority of the Representatives of the people, there can be but little danger of wrong or injury in adjusting the tariff, with reference to its protective effect." The committee pass over the caution against "extraneous considerations;" that will be duly appreciated by the Representatives of the people. The suggestions of the President, which relate to the manner in which a protecting tariff should be formed, the committee believe cannot be adopted. If such views had prevailed since the adoption of the constitution, no tariff for the protection of domestic industry would have existed. If they now prevail, in all the branches of the Government, the tariff has no escape from total destruction.

The framers of our constitution were equally distinguished for profound intelligence and the purest patriotism. In their great design to provide a government for this republic, which should promote and secure the various interests of every portion, did they adopt a single provision, but with open and avowed desire to make a general system? Did not every State present, in bold relief, its separate claims and interests? Was not each separate and distinct claim and interest presented by the different members of the Convention, and well considered by the whole? It was by uniting interests, great and small, scattered far and wide, that our system of Government was adopted. Had "a particular interest" been submitted "singly," from some portion of the country, and that, alone, must have been regarded, the Convention must have dissolved without giving it a glance of notice. But the members of that august assembly did make mutual concessions and compromises, in order to establish a general system.

The President has advised Congress, that the power of protecting domestic industry, by the aid of duties on imports, belongs to the General Government. This, all know, is secured by a constitution, founded on liberal concession and compromise. The committee believe that the protecting power may be exercised, without exposure to impeachment for motives, on the same principles as governed the Convention which framed and recommended our constitution, and the people who ratified it. The application of this protecting power must be made by the Representatives of the people. There is no other way by which it can be exercised. Then, how can this be done? How can it be brought down, home, to business and bosom? If a blacksmith asks the Government of the Union to protect the manufacture of an axe, must this question be submitted "singly" for deliberation? Must a separate bill be introduced, and a vote of Congress taken? Shall abstract theory place the seal of silence on the lips of the blacksmith, and forbid him to say that he wishes the forge, the loom, the sugar plantation, also, to be protected? The consequences are too plain for extensive commentary. The great interests of the nation will hold generous communion among themselves. They will make common cause; they will make mutual concessions, compromises, and even sacrifices, to promote the general welfare, in imitation of the example set by the great founders of our Government. Different interests have a right to consult each other. They will do so. They have always done so. They must and will act in concert if they expect to exist. Mutual aid may be required by the civil interests of the country, as much as mutual assistance was once required from the different States at New Orleans, or Plattsburgh. Statesmen who understand human nature must admit it. It is sanctioned by the purest examples of our country—of all countries. In the adjustment of the existing tariff, it might be presumed by another branch of the Government that Congress did its duty; that it did not improperly obtain support for different interests. It must still be kept in mind, that if the infirmity of our nature rendered it defective in its origin, an attempt at revision might add to its imperfection.

American manufactures have had a long and arduous conflict with the popular, yet delusive doctrine, that additional duties for their protection are taxes on the consumer; and that every man who wears a coat pays the duty imposed into the pockets of the manufacturer. The committee will not go into any train of reasoning to show its fallacy. They will merely advert to a few facts; and they congratulate the friends of the American system, that the memory of every man in the nation can furnish abundant evidence that in all cases where the material is found at home, and the protecting duty has been adequate, the domestic article becomes cheaper in price, and improved in quality. Cotton goods furnish a striking example of this truth, and every man who wears a cotton shirt knows it. The article of nails furnishes another proof, as is well known to every man who builds a house. The committee might enumerate hundreds of articles, such as hats, caps, shoes, boots, and cheese, to sustain them—but they know it would be superfluous. The tax is not paid, because the articles are not imported. The duty secures the market to the home manufacturer; and domestic competition among the manufacturers reduces the cost to the lowest possible price, while, at the same time, it improves the quality. This is the plain truth of the matter; and it is now so well understood by the great mass of the nation, that the American system will not be surrendered nor abandoned so long as the people elect their own rulers. It has taken deep root in our soil—the tree is flourishing, its branches have extended far and wide, and the people will frown indignantly upon every effort to wither its leaf, or to blast its fruit.

The President having, in the proper exercise of his du-

ty, submitted to Congress his views of the tariff, and these having been referred to the Committee on Manufactures, it became the committee to give them a candid and respectful consideration. This they have endeavored to do. Being representatives of the people, they have no apology to make for the freedom with which the opinions of the Chief Magistrate, on this interesting and delicate subject, have been examined.

In framing the tariff, they believe that the acknowledged principles of the constitution have been applied, as faithfully as "Washington, Jefferson, Madison, and Monroe," could have desired: that the present tariff, although it may be defective in parts, is adjusted on principles which those great statesmen approved. Had they been employed to consider its details, and adapt them to the present condition of our country, and the world, and their united wisdom had been exerted, every one might have discovered "imperfection in many of its parts;" yet, as a system, all of them would, most cheerfully, have given it their powerful and hearty support. They understood the "infirmity of our nature" too well, to designate a single interest, and trust it to single consideration. They would have made all interests that required protection come forth together, stand side by side, and then provide a system by which all could be mutually sustained.

The committee are satisfied that the provisions of the existing tariff are national in their character; that no interest, which it has undertaken to protect, is "too minute;" that it contains no evidence of attempts "to force manufactures for which the country is not ripe," of sufficient importance to require revision; that "no comforts of life are taxed unnecessarily high," with a proper regard to revenue and protection; that the "low prices of manufactured articles" have not been caused by the "increased value of the precious metals;" for the precious metals were never before so abundant and cheap in the United States; but, that the low prices of manufactured articles are caused, in a great degree, by the existing tariff, which has made the labor, skill, and enterprise of our people add a vast supply for consumption to the stores of the world.

The committee fully believe that the present general prosperity of the country is mainly to be attributed to the protecting system, and if our fellow-citizens can retain full faith and confidence, that our Government will firmly execute its repeated and solemn promises; that it will maintain the high assurance of support which our people have a right to demand from its dignity and honor, their prosperity will be daily and more rapidly promoted, and the resources of our country more and more amply developed.

The committee repeat that they cannot concur in the opinion of the President, that in framing a protecting tariff, each interest should be presented "singly for deliberation," without any reference to a general system. By such a rule, it is believed, that no protecting system could ever have been adopted, and by its influence, it is strongly apprehended, none can stand. The fears of the committee are the more explicitly declared, because enemies of the system have, in a manner that cannot be misunderstood, exposed their plan of operations. It is to present each object "singly" for deliberation, and conquer the whole system in detail.

The committee have thus presented to the House their undisguised and undissembled opinions on the subject referred, "with the freedom and candor which they considered the occasion for their expression" required. They believe that the tariff, having been so recently revised, any attempt to change its provisions, at this time, would spread alarm among the great interests of our country, shake confidence in the plighted faith of Government, destroy the supposed well-founded hopes of millions of our fellow-citizens, reduce them to penury, and expose the whole country to the dangers of a "most selfish policy which might be adopted by foreign nations."

## COUNTER REPORT UPON MANUFACTURES.

HOUSE OF REPRESENTATIVES, JAN. 13.

MR. MONELL submitted the following report:

A minority of the Committee on Manufactures, to which was referred so much of the President's message as relates to the tariff of duties on imports, and so much thereof as respects manufactures, not concurring in the whole matter or manner of the report preferred by the majority, beg leave to submit their views in a separate report.

With the President, we fully concur in the opinion that there is great cause for congratulation in the practical operation of the tariff, proving, as it conclusively does, that the injuries to our commercial interests, so confidently predicted by its opponents, have not been realized.

With the President, we also concur in the constitutionality of an adjustment of impost duties, with a view to the protection of our own agriculture and manufactures. It would be difficult to frame a more direct, convincing, and conclusive argument on that point than is presented in the message.

That the present tariff is defective in some of its details, we have the concurrent testimony of almost all who have written or spoken upon the subject during its discussion, and since its last modification. In his message to Congress, at the opening of December session, in 1828, President Adams remarked:

"The tariff of the last session was, in its details, not acceptable to the great interests of the Union; not even to the interest which it was specially intended to subserve. Its object was to balance the burthens on native industry, imposed by the operation of foreign laws, but not to aggravate the burthens of one section of the Union by the relief afforded to another. To the great principle sanctioned in that act, one of those upon which the constitution itself was framed, I hope and trust the authorities of the Union will adhere. But if any of the duties imposed by the act only relieve the manufacturer by aggravating the burthens of the planter, let a careful revival of its provisions, enlightened by the practical experience of its effects, be directed to retain those which impart protection to native industry, and remove or supply the place of those which only alleviate one national interest by the depression of another."

During the progress of the bill in Congress, a distinguished friend of domestic industry from Vermont vainly attempted to amend it, and declared that "the manufacture of the coarse fabric (woollens) is ruined at a blow. Just as we are about to realize what the friends of the American policy have foretold that American skill, industry, and enterprise could accomplish, to make them subservient to some fancied benefit, we offer them up as a sacrifice to our enemies."

A friend of the protecting system from Massachusetts observed, "He was himself a wool grower, and was firmly of the belief that the bill was utterly destructive to that class of men; that it put the knife to the jugular vein of every sheep in the country; and that its effects would be equally destructive to the interests of the manufacturers."

A friend to the protecting policy from Maine, speaking the language of many others, said, "This explains to us why it is that those very manufacturers and their agents, who poured into the House petitions, beseeching that we would sustain their sinking establishments, now come here with remonstrances, conjuring us to save them from the tender mercies of this measure. It shows us, too, why the bill is condemned by the fast friends of domestic manufactures, and, among many others, by those champions of the American system, the veterans Niles and Carey."

"It is said that the proposed duty on coarse wool, which we now import from the Mediterranean and South America, is to benefit the agriculturist. It is certainly a great injury to the manufacturers and the consumers."

"While this stinted measure of protection is thus dealt out to the woollens, unexampled duties are proposed on other articles."

"This bill tends to oppress our navigation, and to destroy the markets for some of our productions."

"This bill greatly increases the expenses of ship building."

"This bill must powerfully aid and advance the colonial policy of Great Britain."

"Every manufacture in Maine, which this measure reaches, it injures and destroys."

"This bill, in its effects, co-operates with British policy. That favors the introduction of iron and hemp for their vessels; this taxes them for ours."

"If the question could be proposed to the British Parliament, they would pass this bill for us by acclamation; and should we of this committee adopt it in its present form, a British statesman might well say that we deserved a pension from his royal master."

To the authority of Mr. Adams and his cabinet, anticipated by the discussion of the present tariff before Congress, might be added that of almost every friend of the protecting policy in the United States.

On this point, therefore, the President concurs with President Adams and his cabinet, with the manufacturers themselves, and with all intelligent men.

We concur with the President in the opinion that those who dare not attempt to improve the tariff, and correct its imperfections, do injustice to the American people and to their Representatives. The people wish their Representatives to do right; nor will they consider it a sufficient excuse that they feared to do good lest evil might come. Such a plea will not be deemed very consistent with any valuable creed of political faith or code of good morals. Evil will never come out of good. The Representative who does right need not fear to meet his constituents. He only need fear and tremble, who, thinking right, seeing the evils of an existing system, and knowing it to be injurious and unjust in some of its details, shall, when called to account before his constituents, say, in his defence, I feared to trust myself and my colleagues in an attempt to do right, lest we should do wrong.

We felicitate the country that such is not the character of the President or his message. He advances boldly to his point. He does not fear to do right, lest he may do wrong. Fortified by honesty of purpose and patriotic devotion, he has full confidence that the people will sustain him in all his efforts to reform abuses and correct errors in our various systems of law and administration. He does but justice to the American people when he says, "My confidence is entire, that, to secure such modification of the tariff as the general interest requires, it is only necessary that that interest should be understood."

With the President, we think it probable that the reduced price of produce, raw materials, manufactured articles, and lands, is attributable, in some degree, to a reduction in the supply of the precious metals. That the products of the mines in Spanish America have been less within the last twenty years than they were in the twenty preceding, will not, we presume, be doubted. So far from diminishing, the demand for the precious metals has increased with the increase of civilized population and the extension of commerce. It was, therefore, natural that their value should increase. Undoubtedly, the establishment of extensive manufactories in America, and the improvements in machinery, have tended to reduce the general price of manufactured articles; but the same cause, had it operated separately, would, in this country, have increased the price of lands and agricultural products. Has such been the result? No; lands and agricultural products have declined in price almost as much as manufactured articles. The cause of this decline is not our tariff; it is something "deeper and more pervading." It is diffi-

cult to account for it in any other way than as the effect of an appreciation of gold and silver.

We are aware that money seems to be abundant in our commercial cities, and that it can be borrowed at a low rate of interest. This is not the effect of an increased supply of the precious metals, but of a stagnation of trade and business. So low are the products of commerce, of manufactures, and of agriculture, that rich men find no inducements to invest their capital in those pursuits. Money, therefore, accumulates upon their hands, and they are willing to lend it out, well secured, upon a moderate interest. But were a general war in Europe, or any change in the affairs of nations, to furnish a market for our agricultural productions, and revive our trade, the lending of money at a low interest would instantly cease, and, with the increased demand, apparent scarcity would succeed to apparent abundance.

Having asserted the constitutionality of the tariff, adjusted with a view to protection, the President gives, with characteristic point and clearness, his views of its policy. We quote his language:

"While the chief object of duties should be revenue, they may be so adjusted as to encourage manufactures. In this adjustment, however, it is the duty of the Government to be guided by the general good. Objects of national importance alone ought to be protected; of these, the products of our soil, our mines, and our workshops, essential to national defence, occupy the first rank. Whatever other species of domestic industry, having the importance to which I have referred, may be expected, after temporary protection, to compete with foreign labor on equal terms, merit the same attention in a subordinate degree."

A tariff adjusted on these principles, we are sure, would meet the wishes of all real friends of domestic industry and the interests of the country.

"Objects of national importance alone ought to be protected." It would be absurd to say that the "national importance" of an article depended on the generality of its protection. Lead is found in but two or three States in the Union, yet who will deny its national importance? Perhaps powder is not made in half a dozen States: yet who will deny its national importance? There are not, probably, a dozen cannon foundries in the Union; yet who will deny their "national importance?" If iron were made in only one State, would any man think of denying its "national importance?" To say that the President recommends the protection of only such articles as are produced or manufactured in all or most of the States, is to do violence to his language and evident meaning. Every thing of general necessity or general use, whether it be of general production or not, is an object of "national importance," and evidently embraced in the views of the President.

"Of these," he says, "the productions of our soil, our mines, our workshops, essential to national defence, occupy the first rank." We presume all the friends of domestic industry, and of our country's safety, will concur with the President in this sentiment. He speaks from the admonitions of experience. He has seen our brave militia called into the service of their country, and exposed to a ruthless invader, without arms, without ammunition, and almost without clothing. From want of means of defence he has seen our cities exposed to plunder, and sections of our country to conquest. It would be unwise in our Government not to provide against like dangers in future. "In peace prepare for war," is a maxim as true as it is trite. In the opinion of the President, it should be the first object in a protecting tariff.

But, it may be asked, what productions of our soil, our mines, and our workshops, are essential to our national defence? The President has not thought it necessary or proper to enter into a minute detail in his communication to Congress. Doubtless he did not think it respectful to

inform Congress, that iron, lead, cannon, muskets, bullets, powder, soldiers' and sailors' clothing, ships, with their canvass and tackle, are articles essential to national defence. It was fair to presume that the experience, knowledge, and sagacity of Congress, were competent to fill up the list of these articles, without encumbering his message with details. We know that, with their accompaniments and component parts, embracing coarse woollens, blankets, hats, and shoes, they constitute that class of articles which he says are entitled to the first rank in a tariff of protection.

"Other species of industry," of a national importance, which, "after temporary protection," can compete with foreign labor on equal terms, merit the same attention in a subordinate degree.

We are at no loss to understand the President, nor do we hesitate to concur with him in the sentiment expressed. To produce the manufacture in our own country of all articles of general use among our citizens, and enable us to purchase them as cheap or cheaper than we can obtain them from abroad, is one of the chief objects of the tariff, and its most deservedly boasted effect. To attain an object so desirable, the President thinks a temporary tax on the imported article not unjust or improper. That a temporary protection will, in some branches of manufacture, produce this result, we have the evidence of facts. India cottons, it is stated, were formerly sold in the United States at twenty-five cents per yard. A better fabric is now made in the United States and sold at eight cents. Although the price of such cottons has much declined in India, yet the decline has fallen so far short of that in the United States, that our cottons now enter into successful competition with them in the markets of the very countries where they are manufactured. Our cottons successfully compete with the British cottons, also, in all countries where they are permitted to enter on equal terms; and, it is affirmed, might be sold in England itself at a profit, if they could be admitted free of duty. By a temporary protection, therefore, our cotton manufactories have been established, and brought to such perfection, that they successfully compete with foreign establishments, wherever they can meet them on equal terms.

If they can compete with foreign manufactures in the markets of other countries, loaded with freights and commissions, could they not maintain themselves without protection in our own markets? How does our tariff enable our manufacturers to undersell the India fabric in the India market? How does it enable them to undersell the British in the Levant and South America? It is obvious that the tariff can affect present prices only in our own market. It does not affect the price of coarse cottons, even at home: for competition has so reduced it that they can be bought at a less price in the United States than India cottons can in India. If the tariff were now abolished, these goods would continue to monopolize our own market, and compete with foreign fabrics in the markets of the world.

That India cottons would not again be seen in our markets is proved by the fact that our cottons are sold at a profit in the markets of that country. India cottons formerly sold at twenty-five cents. If the duty were taken off, they might probably be afforded in our market at twelve cents. Our own cottons, of a better quality, sell for eight. Who would buy the India cottons at twelve, when he could get our own and better at eight?

Nails are another article which domestic competition has reduced in price, so that, in some cases, we believe the whole cost does not now equal the duty.

The manufactures of hats, shoes, and cabinet ware, have, from the protection they have received, and the skill and industry of our manufacturers, attained such a force as to defy foreign competition. Those branches of our agriculture which produce cotton, wheat, beef, pork, and



butter, though they may have required protection in their infancy, have outstripped all protection, furnish the cheapest and most abundant supply, and have acquired a vigor which defies foreign competition, and "counteracts the most selfish and destructive policy of foreign nations."

Many other articles might be enumerated, but these are sufficient to illustrate the views of the President. Temporary encouragement has been afforded. These "species of domestic industry" have been enabled "to compete with foreign labor on equal terms." The tariff upon these articles has ceased to be a tax: for they can be purchased lower in our own than in foreign markets, and their importation has either ceased or is fast diminishing.

In whatever cases the same effect can be produced, the President thinks, and we think, that the same means of protection should be employed. But if there be no hope of so establishing in this country a species of culture or manufacture that it will eventually be able "to compete with foreign labor on equal terms," to that a tariff of protection ought not to be applied. He would be esteemed a madman who should, by a tariff, endeavor to establish in this country the culture of tea, pepper, pimento, cinnamon, Peruvian bark, and many other products not adapted to our soil or climate, or to the habits of our people. There are species of manufactures which partake of the same character. A heavy duty upon them is an useless tax upon the consumer. It produces no present, and promises no prospective, good. Unless the proceeds be required for revenue, it ought not to be imposed.

As specimens of interest embraced in the present tariff, too minute and local to merit protection, we may name marble, capers, olives, figs, &c.; and as specimens of manufactures it attempts to force, for which the country is not ripe, we mention silks, worsted stuff goods, merino shawls, &c.

We fully concur with the President in the opinion that "the best as well as the fairest mode of determining whether, from any just considerations, a particular interest ought to receive protection, would be to submit the question singly for deliberation." We have not so little confidence in the people, or their representatives, as to believe that an appeal to local or individual interests is necessary to induce them to do what the general interest requires. If a single interest were presented, they would weigh the benefits and injuries which its protection might produce to the general interests of the country, and decide without the bias of local or selfish considerations. If, in their opinion, the general good required its protection, they would grant it. If, on the contrary, the injury would counterbalance the benefits, they would refuse it.

It is inconceivable to us how it can be made a general benefit to protect a combination of interests, each of which, taken separately, it would be injurious to protect. If it be injurious to protect each singly, the mass of injury is increased more readily than the benefits by their combination.

Suppose that Massachusetts has an interest which she wishes protected, but, after due consideration, it is the opinion of Congress that it will produce twice the harm that it would good. It is evident that her wishes ought not to be gratified.

New York has an interest which she presents for protection; but it is decided that the general injury of such a measure will be three times as great as the general good. Of course she ought not to be gratified.

Virginia presents an interest for protection; but it is the opinion of Congress that, in the general scale, such a measure will do five times as much harm as good. It is evident that the measure proposed by her ought not to be adopted.

Now, can these three measures become useful and proper by combining them together? Will not that of Mas-

sachusetts still be twice as injurious as it is beneficial; that of New York three times; and that of Virginia five times? Will not the injury of the combination be to the benefit as ten to three? Extend the same principle to ten States—twenty States—all the States. It is impossible that the combination of twenty-four bad measures can produce a good measure. As soon should we look to the concentration of all the vices to make a good man.

We, therefore, concede the justice of the rule laid down by the President. It is worthy of the mind whence it comes—a mind which marches straight to its object, and seeks no subterfuge to deceive the people, or evade responsibility. Its observance would promote purity of motive and justice of action in all our legislative acts.

We concur with the President in the opinion that the chief object of impost duties is revenue, and that their adjustment so as to protect manufactures is an incidental or secondary power. To lay duties for the sole purpose of protecting domestic industry, would be an anomaly in Government. What would be done with the money collected? If our national debt were paid, and we had no use for money in the concerns of Government, there would now be an accumulation in the treasury to the amount of twenty-four millions annually. If the sole object of the duty be to protect domestic industry, that object is accomplished when the money is paid into the treasury. Shall it be hid in the earth, sunk in the ocean, given to Government favorites, or distributed among the manufacturers?

We do not believe the people of the United States will consent to pay twenty-four millions, nor ten millions, nor five millions, for the sole purpose of protecting manufactures. If they perceive that the money raised by protecting duties is not devoted to useful and honest purposes, they will demand their reduction or repeal.

We therefore concur with the President in the opinion that the duties on articles constituting a portion of the necessities and comforts of life should be reduced or entirely repealed. A more certain means of preserving the protecting duties could not be recommended. What interest has any portion of our manufacturers, or agriculturists in preserving the duties on tea, coffee, cocoa, pepper, cinnamon, or any other foreign products or manufactures which do not come into competition with the fruits of their own labor? The duties on those articles yield no protection, but they produce a considerable amount of revenue. They will continue to do so after the national debt shall be extinguished. Is it not better for the labor of the country that the amount of these duties should be levied upon other articles, that come into competition with domestic products? If they continue to be levied upon these articles, they will diminish, as they do now, the amount collected from articles the manufacture or growth of which in our own country needs the encouragement of a protecting tariff.

To us nothing is plainer than that it is the interest of the true friends of a protecting tariff to repeal every duty which has no protective effect. The whole revenue of the country would then be adjusted upon imports, with a view to the protection of domestic industry. With a reduced revenue, the protection will then be more efficient than it is now; and there will be no danger of a ruinous reaction after the payment of the national debt.

The admonitions of the President are the voice of wisdom. Take off the duties on the necessities and comforts of life, and correct the abuses of the tariff. Adjust the whole revenues of the country on such imported manufactures and produce as compete with our own domestic labor: then will protection be confined to its legitimate objects, the system of protecting duties will be identified with the revenue system of the country, and cannot be shaken.

Most sincerely do we accord with the President in the

sentiment, "that our deliberations on this interesting subject should be uninfluenced by those partisan conflicts that are incident to free institutions." "To make this great question, which unhappily so much divides and excites the public mind, subservient to the short-sighted views of faction, must destroy all hope of settling it satisfactorily to the great body of the people, and for the general interest. I cannot, therefore," says he, "on taking leave of the subject, too earnestly for my own feelings or the common good, warn you against the blighting influence of such a course."

It is not too much to say that from faction has the tariff derived most of its bad features; and it is faction only which endangers its good. Its provisions have been arranged too little with a regard to equality, justice, and the public good, and too much with reference to effect on political elections; satisfactory to nobody, injurious to many, and to some, as they allege, fatal. Members of Congress, fearing they should not be able to obtain a tariff at that time, did not think proper to vote against it, lest such an act might have a sinister influence on the election to the Presidency of a political favorite. Some, too, voted for it, believing that in a season of more tranquillity its errors would be corrected, and its defects supplied. Now, men dare not attempt to correct, or even acknowledge, imperfections and errors which they once condemned, lest they should impair its force as a political weapon.

Is this a safe basis on which to rest an essential branch of our domestic policy, involving one or two hundred millions of dollars, and the regular pursuits of many thousands of our citizens? Are these immense interests to be cast upon the waves of party strife, and rise and sink with the success or defeat of a particular candidate for the Presidency? Those who have an agency in producing a result so disastrous will have much to answer for to an injured people. They attempt to put to hazard the whole protecting system upon the doubtful result of an election. They destroy all certainty in this branch of our domestic policy, and fill those who have property embarked in manufactures with anxiety and alarm. Worse than the most desperate gamblers, they put to stake, not their own money, but the property, the pursuits, the means of subsistence, of tens of thousands of their fellow-citizens. They force men engaged in quiet occupations to embark in contests of party strife, as a means of promoting their private interests. They encourage, by theory and practice, a spirit of gaming in all the affairs of society, which will exhibit its deleterious effects, not on the broad theatre of the nation alone, but in States, towns, and corporations; hazarding public and private interests in struggles to gratify personal ambition. They destroy the efficiency of the tariff as a means of retaliating the selfish policy of foreign nations. Perceiving that our Government is actuated by no settled policy, and that its measures are adopted and rescinded with the alternate success of contending parties, instead of being brought to concession by the effect of our counteracting legislation upon their essential interests, they will await, and, perhaps, promote, a change of party, as a certain means of obtaining a change of policy. Our country will thus become powerless in its means of retaliation, if not the scene of foreign intrigue and corruption. Finally, they destroy the respect of the people for the tariff, and lead them to consider it, not as a permanent and essential interest of the country, but merely as a weapon of party warfare, to be shivered and struck from the hand of a political opponent, or consigned to the fate which awaits its advocates in defeat.

It has too often been the fate of good measures, in a republic, to be seized upon by aspiring demagogues as a means of accomplishing their selfish purposes. Caring nothing for the public interests, and regarding only their self-aggrandisement, by professions of extraordinary zeal they

have been enabled to assume the station of leaders. To maintain that position, and attain the prize of their ambition, they outstrip all the honest and prudent advocates of true policy, and push every popular measure to excess. Borne on the tide of public feeling, before their hypocrisy is discovered, they have sometimes been able to force themselves into the citadel of power. The successful examples of unprincipled ambition in other ages and countries may, in our own, inspire a hope of success by the use of the same means, in men of like habit and fortune.

Nothing can be so fatal to the true and lasting interests of manufactures, or any other essential interest of our country, as the intemperate and hypocritical support of such men; and yet, in the progress of our history, these great interests may justly dread their fatal friendships. Without indulging in any invidious anticipations, we may expect that, as in other countries, so in this, from among such men a leader may appear; with eloquent harangues and artful appeals he may scatter delusions and lead reason captive; he may induce them to think that a high tariff on articles which we cannot, as well as those which we can, produce, and an unrelenting persecution of all who oppose it, constitute the true policy of the republic; and that he alone, placed at the head of Government, can give it practical effect. In his grasp after power, he may seize upon every measure that appeals to the personal interests and sectional feelings of men, and rally around him a party pledged to sustain in its then condition the tariff, or any other measure, though deemed oppressive by many, and imperfect by all. He may denounce prudence and moderation in its support as hostility to the system, and stigmatise as traitors those whom he and his partisans may have studiously excited to violent opposition. He may denounce as hostility to the tariff all opposition to himself, and endeavor to force the community to consider the fate of the protecting policy as identified with his own. When such a leader and such a party shall appear, it will be the duty of wisdom and patriotism, and the interests of all honest men, to resist their machinations.

Do not all manufacturers see what, in such a case, would be the probable result of identifying themselves and their great interests with the ever-varying fortunes of party, the intemperate zeal of faction, and the madness of ambition? Do they not see that they must lose the confidence and support of many honest citizens? In such an alliance, must not their interests fall with the faction to whose merciless care they shall have confided them? And will they place their establishments, their interests, their all, in the hands of political gamblers as a stake?

The history of the past, indeed, assures us that the demagogue will never be without his instruments. These, too, for the benefit of their patron, and hope of future favor at his hands, are ready to convert the dearest interests of their country into footballs of party contention, and hazard the property and pursuits of their fellow-citizens in struggles for power. But it is sincerely hoped that they may never find their way into Congress. Here let us hope that all men will bring and retain an honest and a fearless heart to serve the public, and never so far forego their duty as to become the instruments of unchastened ambition—to rally at his watchword, set at nought the reasonable complaints of any portion of our fellow-citizens, refuse to amend defective laws, cast the essential interests of their country on the waves of party, and sneer at the counsels of age, the admonitions of experience, and the expostulations of patriotism.

But if, unfortunately for the interests of the republic, and for none more so than the interests of home industry, such a leader as we have alluded to should, by the aid of such partisans in Congress, be placed in the Presidential chair, what may the country expect? It may expect every corruption to be nourished, and every abuse to be

cherished. It may expect a defective tariff to be made worse. Pledged, as he may be, to maintain it as it is, the country may expect protection to be refused to any interest to which our growth and improvement may require it should be extended. Instead of protection, it may expect taxation. It may expect its exactions to be increased by countless millions, and the moneys to be expended in rewarding followers, purchasing friends, pensioning dependents, and in efforts to buy over States and neighborhoods, by special favors, to the support of his re-election, or the election of a designated successor. It may expect, in the end, that here, as in other countries where ambition rules, taxation will be made to reach every article of food and clothing, lands, houses, fuel, hearths, the light of Heaven itself.

In return for these miseries, it may expect splendid projects and magnificent structures, honored and adorned by the gilded equipages of the rich, with the State Governments annihilated, property concentrated in the hands of a few, and the great mass of the people oppressed, poor, starving, desperate, and rebellious.

These mischiefs may be attempted, but we fear no such disastrous results. To save the tariff from all risks is our earnest desire. This, we are convinced, can only be done by rescuing it from the custody of demagogues and partisans, correcting its errors, amending its imperfections; and appealing to the good sense and justice of the community to give it a generous support. But if the prudent counsels of the chief who has saved his country in war, and is honestly seeking to promote her interests and preserve her institutions in peace, are to be unheeded or derided, and if there are men who are determined not to correct any of the admitted errors of the tariff, to tax unnecessarily high the necessities and comforts of life, and make it a party question, with them rests the responsibility, and on their heads be the consequences. With our venerable President, we will struggle to maintain all that is valuable in the present tariff of protection, and extend its benefits. But should the manufacturers and working men find themselves overwhelmed and ruined by a reaction of public opinion, which shall sweep away as well all that is good as all that is bad in the protecting system, they will inquire who it was that, by pertinaciously adhering to acknowledged error, defending admitted imperfections, insisting on unnecessary exactions, and hazarding all in a struggle for power, brought upon them irretrievable ruin. The counsels of age and experience will then be received with other feelings than derision; and the nostrums of quack politicians, too prejudiced to listen to truth, or too factious to regard it, will be remembered only with abhorrence.

We cannot better conclude than by repeating the warnings of the Chief Magistrate.

"That our deliberations on this interesting subject should be uninfluenced by those partisan conflicts that are incident to free institutions, is the fervent wish of my heart. To make this great question, which, unhappily, so much divides and excites the public mind, subservient to the short-sighted views of faction, must destroy all hope of settling it satisfactorily to the great body of the people, and for the general interest. I cannot, therefore, on taking leave of the subject, too earnestly for my own feelings or the common good, warn you against the blighting consequences of such a course."

#### DUTIES ON IMPORTED SUGAR.

IN SENATE, February 16, 1831.

MR. DICKERSON made the following report:

The Committee on Manufactures, to whom was referred the bill to reduce and fix the duties on sugars imported into the United States, have had the subject under consideration, and beg leave to report:

That, in making up their opinions upon this subject, they have not the aid of any petitions, remonstrances, or documents of any kind, to show the necessity or propriety of reducing the duties on sugars, in accordance with the provisions of the bill submitted to them.

Their attention, however, has been called to a letter of the Secretary of the Treasury to the Speaker of the House of Representatives, of the 19th of last month, upon the subject of the cultivation of the sugar cane, and the manufacture and refinement of sugar. In this they find much information, obtained from sources on which great reliance may be placed, showing the necessity of continuing the present duties upon sugars.

The duty of two and a half cents per pound upon brown sugar, when we obtained Louisiana, was evidently imposed for revenue alone; during the late war it was doubled for the purpose of revenue. Under these duties, however, the culture of the sugar cane and the manufacture of sugar grew up to a degree of importance, that well merited the attention of the National Legislature; and in 1816 the duty was fixed at three cents per pound. As this exceeds the duty laid before Louisiana was obtained, by a half cent per pound, it may be considered that the duty has been increased to that amount for the protection and encouragement of one of the most important products of agriculture and manufacture which this country can boast of.

Small as this additional duty was, its effects have been very decided and extensive. It has diverted a large portion of the capital and labor, heretofore less profitably employed in producing rice, cotton, and tobacco, to the production of sugar, thereby relieving, to a certain extent, the cultivators of those articles from the pressure created by over production.

It appears that a capital of about forty-five millions of dollars is invested in establishments for raising the sugar cane, and for manufacturing sugar and molasses, in Louisiana alone. That the produce of these establishments amounted, in the year 1828, to eighty-seven thousand nine hundred and sixty-five hogsheds of sugar, which is nearly two-thirds of all the sugar consumed in the United States. That the produce of the crops of 1830, in Louisiana, is estimated at one hundred thousand hogsheds. And it is further estimated that we have land enough, proper for the cultivation of sugar, to yield a sufficient supply of this article, for the entire consumption of the United States for fifty years to come.

This exhibits the most satisfactory evidence of the great resources of our country, and of the untiring industry and enterprise of our citizens; and it is a circumstance no less gratifying, that, while our establishments for producing sugar have been rapidly increasing, the price of the article has been constantly decreasing, and sugar, which five years ago sold in our markets for ten cents per pound, is now selling for six cents per pound. The competition between the foreign and domestic production has reduced and kept down the price, as well in our own markets as in the markets of the islands from which we make importations; so that, without doubt, the consumer, both here and there, purchases the article at a cheaper rate than he could do if no more sugar was produced in the United States now than was produced in the year 1816.

The price of sugar will continue to fall, if, as many believe, the profit of capital invested in establishments for producing sugar is greater than the capital employed in the production of rice, cotton, and tobacco; for the capital employed in the latter establishments will be transferred to the former, until there shall be an equality of profits among them. Increased production will increase competition in our markets, which must end in a reduction of prices.

The producers of sugar believe, and with good reason, that a reduction of the duties upon foreign sugar would be

destructive of the investments which they have been invited to make by the laws of Congress. The benefits which have resulted from the protection of the additional half cent duty upon sugar would be lost, should that protection be withdrawn; and should the duty be reduced to one cent per pound on brown sugar, agreeably to the last section of the bill, it would carry ruin to a large portion of our citizens who have invested their capital in sugar plantations, and it would be attended with the loss of property to the amount of many millions of dollars.

As the production of sugar in the United States is now in a train of successful experiment, the committee think it would be contrary to every principle of sound policy to check its progress by removing the cause of its prosperity. They consider the production of this article, even if confined to Louisiana alone, as one of national importance, and one in which every State in the Union has a deep interest.

All who furnish the capital and labor, the steam engines, mills, kettles, tools, carts, wagons, ploughs, horses, mules, oxen, pork, beef, fish, corn, flour, and other provisions, and all articles of clothing necessary for those engaged in the production of sugar—all these participate in the advantages of this important branch of industry. This renders Louisiana dependent upon the Southern and Western States for a part of her capital, labor, and supplies, and the Middle and Eastern States for a large portion of the residue, and every State, in a greater or less degree, dependent upon Louisiana for an article indispensably necessary to the health and comfort of every individual in the Union.

This mutual dependence, which cannot fail to attach, by the strongest ties, the most southerly member of the confederation to those of the South, the North, and the West, is a consideration of high importance in a political point of view, when we are admonished, by the signs of the times, to strengthen, and not to weaken, the amicable relations among the States.

The transportation of domestic sugar is already an object of great importance to our commerce and navigation. To supply the Middle and Eastern States with this article from New Orleans, requires as much shipping as to obtain it from the West Indies, and affords to the shipper as good a profit in the one case as in the other. But the profits of the trade, if carried on with the West Indies, must be divided between the merchants of the two countries, while, if it is carried on with New Orleans, the whole profit must remain with our own citizens.

The bill provides that the permanent duties upon sugars shall be such as might have been levied by the act of the 4th of July, 1789, that is, three cents per pound upon loaf sugar, and one cent per pound upon brown sugar. This, therefore, in the opinion of the committee, is a bill for raising revenue upon sugar, as much so as it would be if no duties had heretofore been laid upon this article. A bill imposing duties upon articles of importation, whether such duties shall be greater or less than those established by pre-existing laws, is equally a bill for raising revenue, and can only originate in the House of Representatives.

The committee, therefore, direct that the bill referred to them be reported without amendment, and that their chairman, at the proper time, move for its indefinite postponement.

#### INTERCOURSE WITH THE INDIAN TRIBES.

*Message from the President of the United States, in compliance with a resolution of the Senate relative to the execution of the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, passed the 30th March, 1802.*

FEBRUARY 22, 1831.

*To the Senate of the United States:*

I have received your letter of the 15th instant, requesting me "to inform the Senate whether the provisions

of the act entitled 'An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers,' passed the 30th March, 1802, have been fully complied with on the part of the United States Government; and, if they have not, that he inform the Senate of the reasons that have induced the Government to decline the enforcement of the said act;" and I now reply to the same.

According to my views of the act referred to, I am not aware of any omission to carry into effect its provisions in relation to trade and intercourse with the Indian tribes, so far as their execution depended on the agency confided to the Executive.

The numerous provisions of that act, designed to secure to the Indians the peaceable possession of their lands, may be reduced, substantially, to the following: That citizens of the United States are restrained, under sufficient penalties, from entering upon the lands for the purpose of hunting thereon, or of settling them, or of giving their horses and cattle the benefit of a range upon them, or of travelling through them, without a written permission; and that the President of the United States is authorized to employ the military force of the country to secure the observance of these provisions. The authority to the President, however, is not imperative. The language is, "it shall be lawful for the President to take such measures, and to employ such military force as he may judge necessary, to remove from lands belonging to, or secured by treaty to, any Indian tribe, any citizen who shall make a settlement thereon."

By the 19th section of this act, it is provided that nothing in it "shall be construed to prevent any trade or intercourse with the Indians living on lands surrounded by settlements of citizens of the United States, and being within the ordinary jurisdiction of any of the individual States." This provision I have interpreted as being prospective in its operation, and as applicable, not only to Indian tribes which, at the date of its passage, were subject to the jurisdiction of any State, but to such, also, as should thereafter become so. To this construction of its meaning I have endeavored to conform, and have taken no step inconsistent with it. As soon, therefore, as the sovereign power of the State of Georgia was exercised, by an extension of her laws throughout her limits, and I had received information of the same, orders were given to withdraw from the State the troops which had been detailed to prevent intrusion upon the Indian lands within it; and these orders were executed. The reasons which dictated them shall be frankly communicated.

The principle recognised in the section last quoted was not for the first time then avowed. It is conformable to the uniform practice of the Government before the adoption of the constitution, and amounts to a distinct recognition, by Congress, at that early day, of the doctrine that that instrument had not varied the powers of the Federal Government over Indian affairs, from what they were under the articles of confederation. It is not believed that there is a single instance in the legislation of the country in which the Indians have been regarded as possessing political rights, independent of the control and authority of the States within the limits of which they resided. As early as the year 1782, the journals of Congress will show that no claim of such a character was countenanced by that body. In that year, the application of a tribe of Indians residing in South Carolina, to have certain tracts of land which had been reserved for their use in that State, secured to them, free from intrusion, and without the right of alienating them, even with their own consent, was brought to the consideration of Congress by a report from the Secretary of War. The resolution which was adopted on that occasion is as follows:

"Resolved, That it be recommended to the Legislature of South Carolina to take such measures for the satisfac-

tion and security of the said tribes as the said Legislature, in their wisdom, may think fit."

Here is no assertion of the right of Congress, under the articles of confederation, to interfere with the jurisdiction of the States over Indians within their limits; but rather a negation of it. They refused to interfere with the subject, and referred it, under a general recommendation, back to the State, to be disposed of as her wisdom might decide.

If, in addition to this act, and the language of the articles of confederation, any thing further can be wanting to show the early views of the Government on this subject, it will be found in the proclamation issued by Congress in 1783. It contains this language: "The United States, in Congress assembled, have thought proper to issue their proclamation, and they do hereby prohibit and forbid all persons from making settlements on lands inhabited or claimed by Indians, without the limits or jurisdiction of any particular State." And again:

"Resolved, That the preceding measures of Congress, relative to Indian affairs, shall not be construed to affect the territorial claims of any of the States, or their legislative rights within their respective limits."

It was not then pretended that the General Government had the power, in their relations with the Indians, to control or oppose the internal policy of the individual States of this Union; and, if such was the case, under the articles of confederation, the only question on the subject, since, must arise out of some more enlarged power or authority given to the General Government by the present constitution. Does any such exist?

Amongst the enumerated grants of the constitution, that which relates to this subject is expressed in these words: "Congress shall have power to regulate commerce with the Indian tribes." In the interpretation of this power, we ought certainly to be guided by what had been the practice of the Government, and the meaning which had been generally attached to the resolves of the old Congress, if the words used to convey it do not clearly import a different one, as far as it affects the question of jurisdiction in the individual States. The States ought not to be divested of any part of their antecedent jurisdiction, by implication or doubtful construction. Tested by this rule, it seems to me to be unquestionable, that the jurisdiction of the States is left untouched by this clause of the constitution, and that it was designed to give to the General Government complete control over the trade and intercourse of those Indians only who were not within the limits of any State.

From a view of these acts referred to, and the uniform practice of the Government, it is manifest that, until recently, it has never been maintained that the right of jurisdiction by a State over Indians within its territory was subordinate to the power of the Federal Government. That doctrine has not been enforced, nor even asserted, in any of the States of New England where tribes of Indians have resided, and where a few of them yet remain. These tribes have been left to the undisturbed control of the States in which they were found, in conformity with the view which has been taken of the opinions prevailing up to 1789, and the clear interpretation of the act of 1802. In the State of New York, where several tribes have resided, it has been the policy of the Government to avoid entering into quasi treaty engagements with them, barely appointing commissioners occasionally on the part of the United States to facilitate the objects of the State in its negotiations with them.

The Southern States present an exception to this policy. As early as 1784, the settlements within the limits of North Carolina were advanced further to the west than the authority of the State to enforce an obedience of its laws; others were in a similar condition. The necessities, therefore, and not the acknowledged principles of the Government, must

have suggested the policy of treating with the Indians in that quarter, as the only practicable mode of conciliating their good will. The United States, at that period, had just emerged from a protracted war for the achievement of their independence. At the moment of its conclusion, many of these tribes, as powerful as they were ferocious in their mode of warfare, remained in arms, desolating our frontier settlements. Under these circumstances, the first treaties, in 1785 and 1790, with the Cherokees, were concluded by the Government of the United States, and were evidently sanctioned as measures of necessity, adapted to the character of the Indians, and indispensable to the peace and security of the Western frontier. But they cannot be understood as changing the political relations of the Indians to the States, or to the Federal Government. To effect this would have required the operation of quite a different principle, and the intervention of a tribunal higher than that of the treaty making power.

To infer from the assent of the Government to this deviation from the practice which had before governed its intercourse with the Indians, and the accidental forbearance of the States to assert their right of jurisdiction over them, that they had surrendered this portion of their sovereignty, and that its assumption now is usurpation, is conceding too much to the necessity which dictated those treaties, and doing violence to the principles of the Government, and the rights of the States, without benefiting, in the least degree, the Indians. The Indians, thus situated, cannot be regarded in any other light than as members of a foreign Government, or of that of the State within whose chartered limits they reside. If in the former, the ordinary legislation of Congress, in relation to them, is not warranted by the constitution, which was established for the benefit of our own, not of a foreign people: if in the latter, then, like other citizens, or people resident within the limits of the States, they are subject to their jurisdiction and control. To maintain a contrary doctrine, and to require the Executive to enforce it by the employment of a military force, would be to place in his hands a power to make war upon the rights of the States, and the liberties of the country—a power which should be placed in the hands of no individual.

If, indeed, the Indians are to be regarded as people possessing rights which they can exercise independently of the States, much error has arisen in the intercourse of the Government with them. Why is it that they have been called upon to assist in our wars, without the privilege of exercising their own discretion? If an independent people, they should, as such, be consulted and advised with; but they have not been. In an order which was issued to me, from the War Department, in September, 1814, this language is employed: "All the friendly Indians should be organized and prepared to co-operate with your other forces. There appears to be some dissatisfaction among the Choctaws; their friendship and services should be secured without delay. The friendly Indians must be fed and paid, and made to fight when and where their services may be required." To an independent and foreign people, this would seem to be assuming, I should suppose, rather too lofty a tone; one which the Government would not have assumed if they had considered them in that light. Again: by the constitution, the power of declaring war belongs exclusively to Congress. We have been often engaged in war with the Indian tribes within our limits; but when have these hostilities been preceded or accompanied by an act of Congress declaring war against the tribe which was the object of them? And was the prosecution of such hostilities an usurpation, in each case, by the Executive which conducted them, of the constitutional power of Congress? It must have been so, I apprehend, if these tribes are to be considered as foreign and independent nations.

The steps taken to prevent intrusion upon Indian lands



had their origin with the commencement of our Government, and became the subject of special legislation in 1802, with the reservations which have been mentioned in favor of the jurisdiction of the States. With the exception of South Carolina, who has uniformly regulated the Indians within her limits, without the aid of the General Government, they have been felt within all the States of the South, without being understood to affect their rights, or prevent the exercise of their jurisdiction, whenever they were in a situation to assume and enforce it. Georgia, though materially concerned, has, on this principle, forbore to spread her legislation further than the settlements of her own white citizens, until she has recently perceived, within her limits, a people claiming to be capable of self-government, sitting in legislative council, organizing courts, and administering justice. To disarm such an anomalous invasion of her sovereignty, she has declared her determination to execute her own laws throughout her limits; a step which seems to have been anticipated by the proclamation of 1783, and which is perfectly consistent with the 19th section of the act of 1802. According to the language and reasoning of that section, the tribes to the South and the Southwest are not only "surrounded by settlements of the citizens of the United States," but are now also "within the ordinary jurisdiction of the individual States." They became so from the moment the laws of the State were extended over them; and the same result follows the similar determination of Alabama and Mississippi. These States have each a right to claim, in behalf of their position, now, on this question, the same respect which is conceded to the other States of the Union.

Towards this race of people, I entertain the kindest feelings; and am not sensible that the views, which I have taken of their true interests, are less favorable to them, than those which oppose their emigration to the west. Years since, I stated to them my belief, that if the States chose to extend their laws over them, it would not be in the power of the Federal Government to prevent it. My opinion remains the same; and I can see no alternative for them, but that of their removal to the west, or a quiet submission to the State laws. If they prefer to remove, the United States agree to defray their expenses, to supply them the means of transportation, and a year's support after they reach their new homes—a provision too liberal and kind to deserve the stamp of injustice. Either course promises them peace and happiness, whilst an obstinate perseverance in the effort to maintain their possessions, independent of State authority, cannot fail to render their condition still more helpless and miserable. Such an effort ought, therefore, to be discontinued by all who sincerely sympathize in the fortunes of this peculiar people, and especially by the political bodies of the Union, as calculated to disturb the harmony of the two Governments, and to endanger the safety of the many blessings which they enable us to enjoy.

As connected with the subject of this inquiry, I beg leave to refer to the accompanying letter from the Secretary of War, enclosing the order which proceeded from that Department, and a letter from the Governor of Georgia.

ANDREW JACKSON.

DEPARTMENT OF WAR, February 21, 1831.

SIR: In reply to your direction, to be informed of the course which has been pursued at this Department to enforce the provisions of the act of March, 1802, regulating trade and intercourse with the Indians, I have the honor to state:

During the last year, frequent complaints were made, that persons from Georgia and other States, had entered upon the lands of the Cherokee Indians, and were digging for gold. The prospect of gain from the pursuit had

drawn many to the country. Riots had taken place, and serious disturbances were threatened and feared. To prevent them, a detachment of troops were ordered into the Indian country, under and in pursuance of the act of 1802, as will appear by orders to the commanding officer stationed at Fort Mitchell, hereto appended, marked 1, 2, 3.

On the 8th of November last, another order issued, directing the troops to retire from the country of the Cherokee Indians, and to resume their position again at their former encampment.—[See order marked 4.]

Within a day or two after this order was issued, information was officially communicated by the Governor of Georgia, that the Legislature, being in session, had entered upon the consideration of this subject, and that the laws of Georgia would be extended over the Indian country. His letter is annexed, marked A.

The opinion entertained by you being, that the United States cannot rightfully interfere within a State where the laws are extended, any application to place troops within Georgia, on account of the act of 1802, must, for the future, be disregarded.

Very respectfully,

J. H. EATON.

The PRESIDENT of the United States.

No. 1.

HEAD QUARTERS OF THE ARMY, WASHINGTON,

March 20, 1830.

SIR: I transmit to you, herewith annexed, a copy of instructions, dated 16th March, 1830, which I have received from the War Department, concerning the intruders upon the lands of the Cherokees.

You are charged with the execution of the intentions of the Government, as expressed in said instructions; and, taking them for your guidance, you will perform every thing directed therein. It is deemed unnecessary to be more particular in regard to that part of the instructions, which relates to the Indians and intruders; but, as it respects the troops, it is desired that two companies of the 4th regiment of infantry should be stationed in the Cherokee nation, in conformity with the letter of the Secretary of War, above alluded to, and herewith annexed, leaving, at Fort Mitchell, the company of artillery, and one company of the 4th regiment of infantry. This is, however, on the presumption that two companies of the 4th regiment of infantry will have arrived in time to admit of the arrangement. You will be pleased to acknowledge the receipt of this letter; and, as often as any thing of importance occurs, you will communicate the same to me, in order that I may lay the same before the Secretary of War.

I have the honor to be, sir, your most obedient servant,

ALEXANDER MACOMB,

Major General, commanding the Army.

Bvt. Brig. Gen. BROOKE,

Or Officer commanding the troops of the  
United States at Fort Mitchell, Alabama.

DEPARTMENT OF WAR, Nov. 16, 1830.

SIR: The President of the United States directs that you instruct the commanding officer at Fort Mitchell to remove the intruders from the lands of the Cherokees. The agent, Colonel Montgomery, will furnish him with a list of those who are not to be interfered with. Persons who are entitled to live in the nation, by virtue of any Indian law or regulation, who are married there, will not be interrupted. Those who have permits from the agents, and those who are seated on lands, from which, in pursuance of treaties, the Indians have removed, and which have been valued by commissioners for payment by the Government, he will not interfere with. All others will be notified to remove beyond the lines of the Cherokee Indians; and, after reasonable notice, the commanding officer will pro-

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Intercourse with the Indian Tribes.

ceed to raze their houses and destroy their fences, that the laws of the country may be faithfully administered, intrusion prevented, and quiet preserved.

Having executed this order, he will assume a position at some healthful point, and occupy it with two companies, to prevent intrusions. The most eligible may be somewhere near the dividing ridge which General Coffee has fixed as the boundary to the south between the Creeks and Cherokees. The agent is furnished with a map showing the boundary. In selecting a position, regard must be had to health and good water, and to the object on account of which the troops are sent—the preventing intrusion.

He will issue notice to the Indians living south of this established line by General Coffee, to remove north of it; but will use no violence towards them until he shall report his proceedings to the Department, and obtain further instruction.

Very respectfully,

J. H. EATON.

Major Gen. A. MACOMB.

No. 2.

DEPARTMENT OF WAR, March 17, 1830.

SIR: An order was yesterday directed to you concerning intrusions on the Cherokee lands. It is hoped that your appearance with the troops may impress upon the intruders the necessity of retiring, and thereby save you from a resort to forcible measures. The President would have you practise forbearance, and, by that means, effect peaceably, if it can be done, a removal of the settlers, and only to pursue the order of razing their houses, and destroying their fences, when every thing of peaceable effort has failed. If a course of violence shall be rendered unavoidable, through obstinacy of the settlers, the better course for you will be, to proceed to operate first upon some small and detached settlement, and, having acted, to wait a little while for the information to spread, and the example to become effective. To proceed directly and generally against any numerous and strong settlement, might wake up an excitement, which would, perhaps, operate prejudicially.

It is desirable, therefore, that, in executing the order directed to you, an exercise of prudence, caution, and sound judgment be constantly regarded. Every confidence is reposed in your discretion, that, in performing this unpleasant duty, it will be done in a way to avoid, as much as possible, any strong excitement.

Very respectfully,

JOHN H. EATON.

Major P. WAGER, Fort Mitchell, Alabama.

No. 3.

DEPARTMENT OF WAR, March 17, 1830.

SIR: You will proceed, without delay, to make out a list of those persons within the Cherokee nation who have settled upon lands which the Indians, under treaties made with the United States, have abandoned, and which have been valued by commissioners appointed by the Government. These it is not now contemplated to interrupt, and the commanding officer from Fort Mitchell must be apprized of their names.

You will make a list, too, of those who rightfully may remain in the nation, whether under any legal sanction from yourself, or by the regulations and rules of the Indians. White men having Indian families will not be removed, unless their deportment and character be such, in your opinion, as to render it necessary.

The commanding officer from Fort Mitchell is ordered with a detachment of troops into the Cherokee nation, where he is directed to remain. Soon as you shall be advised of his approach to the southern boundary of the Cherokee nation, you will forward by the express to him the information directed to be given in this letter; also the

map which was two days ago sent to you, together with the enclosed order. Very respectfully,

JOHN H. EATON.

To Col. HUGH MONTGOMERY,  
Cherokee Agent, &c.

No. 4.

HEAD QUARTERS OF THE ARMY,  
Washington, Nov. 8, 1830.

SIR: The purposes for which the troops were ordered into the Cherokee nation having, in a great measure, been answered, the Secretary of War deems it advisable, upon the approach of winter, that you retire to some position where the troops can be comfortably accommodated, and where they will be in striking distance to meet any contingency that may arise out of our Indian relations, and which cannot at this time be perceived. It is hoped, however, that no circumstance will occur which will render it necessary again to employ the troops among the Cherokees, particularly as the Legislature of Georgia, now in session, will doubtless take the proper and necessary steps to preserve tranquillity along the Indian borders. You will, therefore, with the detachment of the 4th regiment of infantry, retire upon Fort Mitchell; the artillery, with the exception of Captain Boden's company, now at Fort Mitchell, will return to their respective stations, viz: the men belonging to Lieutenant Colonel Fanning's company to Augusta arsenal, Captain Legate's company to Charleston, and Captain Taylor's to Savannah.

I have the honor to be, sir, your obedient servant,

ALEX. MACOMB,

Maj. Gen. commanding the Army.

Brevet Major P. WAGER,

4th regiment of infantry, commanding the troops in the Cherokee nation.

A.

EXECUTIVE DEPARTMENT,  
Milledgeville, Oct. 29, 1830.

SIR: By an act of the Legislature of Georgia, passed at its last session, all the Cherokee territory, and the persons occupying it, were subjected to the ordinary jurisdiction of the State after the 1st of June then next ensuing. This act has gone into operation. The acknowledgment by the President of the right of the State to pass such an act renders it unnecessary to say any thing in its justification. The object of this letter is to request the President that the United States' troops may be withdrawn from the Indian territory within Georgia. The enforcement of the non-intercourse law, within the limits of the State, is considered inconsistent with the right of jurisdiction which is now exercised by its authorities, and must, if continued, lead to difficulties between the officers of the United States and State Governments, which it is very desirable should be avoided. No doubt is entertained that the object of the President, in ordering the United States' troops into the Cherokee territory, was the preservation of the peace of the Union. The motive is duly appreciated. The Legislature of this State is now in session. The special object of its meeting is the enforcement of the laws of the State within the Cherokee country, and the punishment of intrusion into it by persons searching for gold. Its powers are amply sufficient for that purpose. As it is expected that the law for the punishment of trespassers upon the public lands will go into operation within a few days, the President is therefore requested to withdraw the troops as soon as it can be conveniently done.

Information has been received at this Department that the digging for gold is still carried on in various parts of the Cherokee territory, and that the extent of country containing mines is so great, that it is wholly impossible to prevent it by the use of military force alone. It is said that the Indians are even more extensively employed in taking

gold than before the arrival of the troops. This proceeds from their residence within the country, intimate acquaintance with it, and other means of avoiding the operation of the troops. The fear of the whites had restrained them previously.

The writer of the enclosed copy of a communication without signature is known, and is entitled to credit.

The President is assured that, whatever measures may be adopted by the State of Georgia in relation to the Cherokees, the strongest desire will be felt to make them accord with the policy which has been adopted by the present administration of the General Government upon the same subject.

Very respectfully yours, &c.

GEORGE R. GILMER.

To the PRESIDENT of the U. S.

WAR DEPARTMENT, *Sept. 5, 1814.*

SIR: Your letter of August 10th has been received. The avowed objects of the enemy, and the recent outrages of all principles of civilized warfare, warrant a belief and expectation that they will make their devastations as extensive as their means will enable them.

Your most prompt attention and vigorous operations will be required in the lower country. All the friendly Indians should be organized, and prepared to co-operate with your other forces. There appears to be some dissatisfaction among the Choctaws; their friendship and services should be secured without delay. The friendly Indians must be fed and paid, and made to fight when and where their services may be required.

It is desirable that you should repair to New Orleans as soon as your arrangements can be accomplished in the other parts of the district, unless circumstances should render another point more eligible.

I have, &c.

JAMES MONROE.

To Gen. ANDREW JACKSON.

#### REPORT UPON THE JUDICIARY.

Mr. DAVIS, of South Carolina, from the Committee on the Judiciary, to which was referred a resolution instructing that committee to inquire into the expediency of repealing or modifying the twenty-fifth section of an act, entitled "An act to establish the judicial courts of the United States," passed on the 4th of September, 1789, report:

That the committee, profoundly impressed with the importance of the matter referred to their consideration, have bestowed upon it that deliberation it so eminently required; and the investigation has resulted in a solemn conviction that the twenty-fifth section of an act of Congress, entitled "An act to establish the judicial courts of the United States," passed on the 14th September, 1789, is unconstitutional, and ought to be repealed.

The reasons that have induced this opinion the committee will now present for the consideration of the House.

The declaration of independence, the treaty of peace with Great Britain, and the articles of confederation, all announce to the world that the States of the confederacy were free, sovereign, and independent States, and that they had a right to make treaties, form alliances, and to do any other acts that any independent sovereignty could do. In the character of sovereign States, the old confederation and the present Federal Government were alike formed and established. The defects of the old confederation, which rendered necessary the existing Federal Government, were its inability to coerce a State to contribute its quota of supplies to the general treasury, and its want of adequate power to manage, conduct, and control our commercial and foreign relations.

It was perceived in the convention that framed the constitution, that a federal judiciary was indispensably necessary, as a co-ordinate department of the contemplated

Government; and the convention, accordingly, by the following clauses of that instrument, created such a department, and invested it with powers therein specified.

#### ARTICLE III.

SEC. 1. The judicial power of the United States shall be vested in one Supreme Court, and such other inferior courts as Congress may, from time to time, ordain and establish. The judges both of the supreme and inferior courts shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation; which shall not be diminished during their continuance in office.

"SEC. 2. The judicial power shall extend to all cases arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and the citizens of another State; between citizens of different States; between citizens of the same State, claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

"In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make."

#### AMENDMENT—ARTICLE XI.

"The judicial power of the United States shall not be construed to extend to any suit, in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State."

The twenty-fifth section of the act to establish the judicial courts of the United States, is in these words:

#### "SECTION XXV.

"A final judgment or decree of any suit, in the highest court of law or equity of a State, in which a decision in a suit could be had, where is drawn in question the validity of a treaty, or statute of, or an authority exercised under, the United States, and the decision is against their validity; or, where is drawn in question the validity of a statute of, or an authority exercised under, the United States, and the decision is against their validity; or, where is drawn in question the validity of a statute of, or an authority exercised under, any State, on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favor of such their validity; or where is drawn in question the construction of any clause of the constitution, or of a treaty or statute of, or commission held under, the United States, and the decision is against the title, right, privilege, or exemption, especially set up or claimed by either party, under such clause of the said constitution, treaty, statute, or commission, may be re-examined and reversed or affirmed in the Supreme Court of the United States, upon a writ of error, the citation being signed by the chief justice or judge or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner and under the same regulations, and the writ shall have the same effect, as if the judgment or decree complained of had been rendered or passed in a circuit court; and the proceedings upon the reversal shall, also, be the same, except that the Supreme Court, instead of remanding the cause for a final decision, as before provided, may, at their discretion, if the cause shall have been once remanded before, proceed to the final decision of the same,

and award execution. But no error shall be assigned as a ground of reversal in any such case as aforesaid, than such as appears on the face of the record, and immediately respects the before mentioned questions of validity or construction of the said constitution, treaties, statutes, commissions, or authorities in dispute."

In the above mentioned sections, Congress gives the power of a direct appeal from a State court, to the Supreme Court of the United States; but in the opinions of the committee, the constitution of the United States gives the right of appeal only from such inferior courts, as Congress shall, from time to time, ordain and establish. If this opinion be wrong, then has the Supreme Court a supervisory and controlling power over twenty-four sovereign States. Before entering into a particular comparison of the above section of the judicial act of 1789, with the first and second section of the third article of the constitution of the United States, the committee beg leave to make a few preliminary remarks (which it is hoped will not be deemed impertinent to the matter referred) on the peculiar character and structure of our complex system of Government.

The most universally received maxim in the theory of political liberty, since the establishment of American independence, is, that the people alone have the right, either directly or by representative conventions, to make or alter their constitutions or forms of government, and that the Government can do neither. To preserve a Government thus formed, the division and distribution of its powers, into separate departments has also been as universally admitted to be the best security. If the Government, or any department of it, be allowed to change or alter the constitution, the essential and vital principle of theoretical liberty, as established here, with all its securities, must inevitably be destroyed.

This great maxim ought, therefore, to be vindicated, whenever violated. It has never, it is true, been contended that the Supreme Court of the United States, or Congress, or both powers together, can alter the form of the Federal Government; but if the power claimed for the Supreme Court be submitted to, and the twenty-fifth section of the judicial act be continued as a part of the judicial system of the United States, that court will have the power, without any possible check, to encroach upon the other political departments of the Government.

Much difficulty and embarrassment, in discussing questions of political powers and rights, arise from blending and confounding terms usually employed in expressing and describing political laws and judgments. A proper understanding of the distinction between them will always enable us to detect any attempt of the Government, or any department in it, to alter or change the constitution. Political law is made by the people to restrain Government; civil law is made by the Government to restrain individuals. The former is a rule of action for the governing; the latter a rule of action for the governed.

The Supreme Court virtually claims the right, under the constitution, to pronounce political judgments, and asserts the power, under the judicial act, of carrying them into execution, by coercing sovereign States. The committee readily admit that there is great difficulty in distinguishing between political laws and judgments, and civil laws and judgments, in most of the Governments of the world; but confidently believe that it was foreseen and provided for by the framers of the federal constitution, by the division and limitations of power we find there, between the federal and State Governments. None deny that such a division of powers was made by the constitution, between the federal Government and the States, by the grant of specific powers to the former, and the reservation of all ungranted powers to the latter; but a great diversity of opinion has existed as to the power to which resort must be had to determine questions and con-

troversies that might arise between the several departments of our federative system. The question is not a new one. In the great political contest in 1798 and 1800, this very question made a distinction, and marked the line of division between the two parties that then divided the country. The federal party, who were then in power, asserted, that the federal court (which had just then declared and enforced as constitutional the alien and sedition laws,) was the tribunal of last resort established by the constitution, to judge of and determine questions of controversy between the departments of the Federal Government, and between the Federal Government and the States. The republican, or State rights party of that day, on the contrary, denied that the judicial department of the Federal Government, or all the departments of that Government conjointly, were empowered to decide finally and authoritatively, in questions of sovereignty, controversies between a State and the Federal Government, and asserted that there was no common tribunal established by the constitution for such a purpose, and that, consequently, each party had the right to judge of and determine the extent of its own rights and powers. The avowed political creed of that party was, that the Union was the result of a compact between the people of the several States, in their sovereign and corporate capacities and characters of separate and independent societies or States, and not as one entire people forming one nation. That these were the opinions and principles of the republican party of that day, is abundantly proven by Mr. Jefferson, Mr. Madison, and many other able constitutional lawyers.

The committee do not mention the names of these distinguished men for the purpose merely of using their opinions as authority for the principles they advocate, but to establish the fact that the great body of the American people did pass upon, sanction, and adopt these principles, as forming the true theory of our Government, which was manifested by the promotion of these gentlemen to the very stations where these principles were to be tested by action and practice. As it is now a matter of unquestioned history, that Mr. Jefferson penned the memorable resolutions commonly called the Kentucky resolutions, and that Mr. Madison wrote the Virginia report, the committee feel entitled to quote them as authority upon questions of constitutional law.

*Kentucky Resolutions, passed November 10th, 1798.*

"Resolved, That the several States composing the United States of America, are not united on the principle of unlimited submission to the General Government; but that, by compact, under the style and title of a constitution for the United States, and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving, each State to itself, the residuary mass of right to their own self-government; and that whenever the General Government assumes undelegated powers, its acts are unauthorized, void, and of no force; that to this compact each State acceded as a State, and is an integral party; that this Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

The committee beg leave to add the following extract from the same illustrious source:

"That the States of North America, which confederated to establish their independence on the Government of Great Britain, became, on that acquisition, free and

independent States, and, as such, authorized to constitute Governments, each for itself, in such form as it thought best.

"They declared, in the second article of their first confederated Government, that 'each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not, by this confederacy, expressly delegated to the United States in Congress assembled.' They afterwards entered into a compact, which is called the Constitution of the United States of America, by which they agreed to unite in a single Government, as to their relations with each other, and with foreign nations, and as to certain other articles particularly specified. They retained, at the same time, each to itself, the other rights of independent government, comprehending, mainly, their domestic interests.

"For the administration of their federal branch, they agreed to appoint, in conjunction, a distinct set of functionaries, legislative, executive, and judiciary, in the manner settled in that compact, while to each, severally, and of course, remained its original right of appointing, each for itself, a separate set of functionaries, legislative, executive, and judiciary; also, for administering the domestic branch of their respective Governments.

"These two sets of officers, each independent of the other, constitute thus a whole of Government, for each State separately—the powers ascribed to the one, as specifically made federal, exercised over the whole—the residuary powers, retained for the other, exerciseable exclusively over its particular State—foreign, herein, each to the others, as they were before the original compact."

That this is the true exposition of the powers and authorities of the Federal and State Governments, is manifested from the guarded limitation and definition of the grants of power in the compact itself, and by the contemporary discussions and comments which the constitution underwent, which justified and recommended it, on the ground that the powers not given to Government were withheld from it. But to leave no doubt on the subject, the amendments to the constitution expressly declare, that the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The committee are of opinion that the delegated powers resulting from the compact of Governments to which the States are parties, are limited by the plain sense and intention of the instrument constituting that compact, and are no farther valid than they are authorized by the grants enumerated in that compact, and that it is incumbent in this, as in every other exercise of power by the federal Government, to prove from the constitution that it grants the particular power exercised; that if the powers granted be valid, it is solely because they are granted; and all other powers not granted, are not valid.

Testing the 25th section of the act aforesaid, by the foregoing principles and expositions, the committee cannot perceive any grant of power in the constitution to warrant the enactment.

That the constitution does not confer power on the federal judiciary over the judicial departments of the States, by any express grant, is certain from the fact that the State judiciaries are not once named in that instrument. On the contrary, it declares that the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish; thus giving power to organize a judicial system capable of exercising every function to which the judicial power of the United States extended, "and intending to create a new judiciary, to exercise the judicial powers of a new Government," unconnected with, and independent of, the State judiciaries.\*

It is no more necessary to the harmonious action of the

Federal and State Governments, that the federal courts should have power to control the decisions of State courts by appeal, than that the Federal Legislature should have power to control the legislation of the States, or the Federal Executive a State Executive, by a negative. It cannot be, that when a direct negative on the laws of a State was proposed in convention, as part of the federal constitution, and rejected, that it was intended to confer on the federal courts, by implication, a power subjecting their whole legislation, and their judgments and decrees on it, to this negative of the federal courts. It cannot be, that this prostration of the independency of the State judiciaries, this overthrow of the State Governments as co-ordinate powers, could be left to any implication of authority.

The committee are therefore of opinion, that the power to enact the 25th section above recited, is not expressed in the constitution of the United States, nor properly an incident to any express power, and necessary to its execution. That, if continued and acquiesced in as construed by the Supreme Court, it raises the decision of the judiciary above the authority of the sovereign parties to the constitution, may be a warrant for the assumption of powers not delegated in the other departments, nor carried by the forms of the constitution before the judicial department, and whose decisions would be equally authoritative and final with the decisions of that department.

However, therefore, it may be admitted or denied, that the judicial department of the Federal Government is, in all questions submitted to it by the forms of the constitution, to decide in the last resort in relation to the authorities of the other departments of that Government, it can never be authorized so to decide in relation to the right of the parties to the constitutional compact, from which the judicial, as well as the other departments, hold their delegated trusts; on any other hypothesis, the delegation of judicial power would annul the power delegating it, and the concurrence of this department in usurped powers might subvert forever, and beyond the possible reach of any rightful remedy, the very constitution which all were instituted to preserve.

"The authority of constitutions over Governments, and the sovereignty of the people over constitutions, are truths at all times necessary to be kept in mind,"\* and it is matter of regret to the committee, that it should ever have been asserted, that the constitution, on whose face is seen so much labor to enumerate and define the several objects of federal power, could intend to introduce in the lump, in an indirect manner, and by a forced construction, the vast and multiform jurisdiction involved in the section of the law under consideration—a jurisdiction overshadowing the entire field of their legislation and adjudication—a jurisdiction that saps the foundation of the constitution, as a system of limited and specified powers—obliterates the sovereignty of so many republics, renowned for their defiance of tyranny, and whose jealous limitations of power had preserved their liberty, and secured for them a prosperity the wonder and admiration of the world.

Nor are the committee unmindful that, in practice, this disputed power has given rise to painful collisions in the State and Federal authorities, calculated to disturb the harmony of our system, and to weaken that confidence and affection which are due to the respective Governments in the constitutional exercise of all their functions.

The committee will only add one more extract from Mr. Jefferson, which is to be found in a second series of resolutions adopted by the Legislature of Kentucky, the 14th November, 1799:

"That if those who administer the General Government be permitted to transgress the limits fixed by the compact, by a total disregard to the special delegations of

\*Mr. Madison.

\*Mr. Madison.



power therein contained, an annihilation of the State Governments, and the erection upon their ruins of a general consolidated Government will be the inevitable consequence: that the principle and construction contended for by sundry of the State Legislatures, that the General Government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism, since the discretion of those who administer the Government and not the constitution, would be the measure of their powers: that the several States who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction: and that a nullification by those sovereignties, of all unauthorized acts done under color of that instrument, is the rightful remedy."

The committee will now proceed to examine the provisions of the twenty-fifth section, and compare them with the powers of the federal court, as conferred by the constitution of the United States; and then submit for the consideration of the House two judicial decisions of the highest respectability, declaring the said twenty-fifth section unconstitutional.

The whole judicial power of the United States is declared by the constitution to be vested in one Supreme Court, and in such inferior courts as Congress shall, from time to time, ordain and establish. Can Congress, by legislation, invest State courts with any portion of that power? Did the convention contemplate, in using the term appellate jurisdiction, the right and power of taking an appeal from a State court to the Supreme Court? The answer to these questions must be found in the constitution. The Supreme Court is given original jurisdiction only in two classes of cases, to wit: in all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party. The only cases in which a State can be party, are, 1st. where the controversy is between two or more States; and 2d, where the controversy is between a State, or the citizens thereof, and foreign States. In all other cases, before mentioned, says the constitution, the Supreme Court shall have appellate jurisdiction. What courts have the original jurisdiction in all those cases before mentioned, in the second section of the third article, of which the Supreme Court has only the appellate jurisdiction? Let the constitution answer: in "such inferior courts as Congress shall, from time to time, ordain and establish." Is a State court an inferior court? The constitution does not say so. If the framers of the constitution had so considered them, and had intended the right and power of taking an appeal from their judgments to the Supreme Court, it was an easy matter, and they, doubtless, would have said so: their omitting to do so, is proof irresistible that the power was not intended to be given. It is unreasonable to believe that they who were so very precise and specific in the enumeration of cases and powers of infinitely less moment, would have left to implication and inference, a power that breaks down all the barriers between the State and Federal Governments.

The constitution not only invests the whole judicial power of the United States in two specified tribunals, but also prescribes and declares the duties, and rights, and tenure of office of the judges who shall constitute them; not one of which is applicable to the courts or judges of State courts. The courts, in the first place, must be such as are established by Congress; the judges must receive their appointments from the President, with the consent of the Senate; they are told to hold their offices during good behavior; their compensation cannot be diminished during their continuance in office; and are made liable to be impeached and removed from office by the Senate of the United States. Such are the courts and judges that the constitution invested with the jurisdiction of all "other cases before mentioned," in the second section of the third article of that instrument, with the exception of two classes of cases over which original jurisdiction is given to the

Supreme Court. Not one of all these requisites characterize State courts or judges. The State courts are not established by Congress; the State judges do not receive their appointments from the President, by and with the advice and consent of the Senate; they hold their offices not necessarily during good behavior, but by such tenure as the States shall choose; their compensation may be diminished at the pleasure of the States; and they are not responsible to, or liable to be impeached before, the Senate of the United States.

The committee are aware, that, since the able and unanswerable arguments on the twenty-fifth section in the Supreme Court of Virginia, the advocates of federal power have assumed the position, that the right of appeal is claimed for the federal court, on the ground, that the case arises under the laws, treaties, and constitution of the United States, and not on the ground that the State tribunal is an inferior one, from which a writ of error would lie. The natural result of this will be, that, if the position be true, it will prove too much. If the nature of the case be the only ground of jurisdiction, will it not authorize the Supreme Court to issue a citation or writ of error to a court of England or France, on the pretext that some one of the questions arose under a treaty of the United States? A judicial tribunal of one of those places is not more independent of the federal court than is a State court, if the character of the case be the only criterion or authority for federal jurisdiction. Will it be said that the right of jurisdiction is limited by the power to enforce the mandates of of the court? This being admitted, will not vary the result of the present question. The federal courts have the same right to issue a mandamus, prohibition, or process of contempt, to a foreign judge. If the nature of the case can give jurisdiction, as it has, to a State judge, it has also precisely the same power to execute it. If the right existed in the first case, to issue and to execute process, the Supreme Court would virtually be invested with the power of declaring war; if in the latter case, that court will have the power to blot out from the map any State of the Union. If the right to issue a mandatory process to the legislative, executive, and judicial authorities of a State, be admitted to belong to the federal court under the constitution, the correlative obligation on these authorities to obey, and the rightful power to enforce it, are obvious and necessary sequents. The federal court, under these admitted principles, will have the power to prohibit State legislation by writs of injunction; to sequester State treasuries, and to imprison State functionaries, whether governors, judges, or State Legislatures, in a body. Indeed, the power will not stop here; the same reasoning will sustain a power in the federal court to attach and imprison the President and both Houses of Congress. The power by citation or writ of error, to take a case after judgment, from a State court, and to remove it, for final determination, to the supreme federal court, is a much greater outrage on the fundamental principles of theoretical and practical liberty, as established here, than the odious writ of *quo warranto*, as it was used in England by a tyrannical king, to destroy the rights of corporations. The end and aim, in both cases, were similar: in England, it was to make corporations subservient to the kingly pleasure; here, to make States subservient to federal extravagance and aggrandizement.

The last arguments used by the advocates of federal power is, that the action of the Federal Government will be so crippled by the repeal of the twenty-fifth section of the act of 1789, that its wholesome operations will be arrested. Although the committee will not acknowledge that such would be the necessary consequence, yet it may be admitted for the sake of argument, without changing the result.

The committee believe that it is the imperative duty of Congress to repeal, without delay, any of its acts in contravention of the constitution, be the consequences what they

may. If Congress had no power to pass such laws, they are null and void, and ought not to remain on the statute book; if such be really necessary, the power that created the constitution can, and will amend it. Necessity and expedience are the pleas of the tyrant; amendment, the dictate of the constitution. By pursuing the former course, we trample upon the constitution; by following the latter, we go back to the people, the original source of all power.

It has also been urged as a branch of this argument, that the twenty-fifth section is indispensable to that supremacy of the federal court which is required to preserve the peace of the country with foreign Powers, and to render uniform all judgments in treaty cases. The answer to these objections to the repeal of the twenty-fifth section, the committee believe to be full and perfect in the case of *Hunter vs. Martin*, and prefer presenting it in the language of the able judge who delivered it:

"I have said that this controlling power was not essential to preserve the peace of the nation.\* Without going to other considerations or authorities on the subject, it is sufficient to remark that the American people have decided that it is no cause of offence to foreign nations, to have their causes decided, and exclusively and finally decided by the State tribunals. In that amendment to the constitution, by which the jurisdiction of the federal courts is prohibited to suits brought against the States by foreign citizens or subjects, this construction is most undoubted, and has never been complained of.

"Since the adoption of that amendment, the election of jurisdiction has been entirely taken away from foreigners in all suits against the States; and those suits can now be brought in the States' courts in exclusion of every other; and that, too, in cases, in which, from the circumstances of the States themselves being parties, it might, perhaps, be plausibly urged that the judges of the State courts were not free from bias. I consider that this declaration by the American people, and which has never excited a murmur in foreign nations, has put down the notion now in question. It has settled the question forever, that it is no cause of war to foreign nations, that the State judiciaries should finally decide the causes, elected to be brought therein by their subjects. It has consequently overthrown the only foundation on which the whole superstructure of the twenty-fifth section of the judicial act has been supposed to rest.

"That pretence is the only one on which the power in question could be attempted to be justified. That of rendering uniform all judgments in the case of treaties is still less tenable, and is even not attained by the actual provisions of the judicial act. Under that act, the appeal equally lies to the Supreme Court of the United States, where such uniformity already exists, and is denied where it is wanting.

"If, for example, the Supreme Court of the United States has decided against a treaty, and the Supreme Court of a State decides the same way, there this uniformity already exists, and yet the appeal is allowed. If, on the other hand, the former court decides against a treaty, and the latter in favor of it, this uniformity is wanting, yet the appeal is denied."

The following is the unanimous opinion of the Supreme Court of Virginia, in the above stated case.

"The court is unanimously of opinion, that the appellate power of the Supreme Court of the United States does not extend to this court, under a sound construction of the constitution of the United States; that so much of the 25th section of the act of Congress, to establish the judicial power of the United States, as extends the appellate judicial power of the Supreme Court to this court, is not in pursuance of the constitution of the United States;

and that the writ of error in this case was improvidently allowed under the authority of that act; that the proceedings thereon in the Supreme Court, were *coram non judicem* in relation to this court, and that obedience to its mandate be declined by this court."

The committee will present one more judicial opinion of a State Court against the powers contended for by the Supreme Court of the United States.

The Supreme Court of the Commonwealth of Pennsylvania, in the case of the *Commonwealth vs. Cobbett*,\* solemnly and unanimously refused to permit the defendant, who was an alien, to remove a cause in which he was sued by the State in its Supreme Court, into a Circuit Court of the United States, notwithstanding the comprehensiveness of the words of the twelfth section of the judicial act. The court, after deciding, in the most explicit terms, that all power not granted to the Government of the United States, remained with the several States; that the Federal Government was a league or treaty, made by the individual States as one party, and all the States as another; that when two nations differ as to the construction of a league or treaty existing between them, neither has the exclusive right to decide it; and that if one of the States should differ with the United States as to the extent of the grant made to them, there is no common umpire between them but the people, by an amendment of the constitution; went on to declare its own opinion on the subject, and overruled the motion on the ground that the sovereign State of Pennsylvania could not, on account of its dignity, be carried before that court. This was the solemn and unanimous decision of the Supreme Court of one of the most respectable and republican States of the Union.

The decisions of these tribunals, the committee consider of high authority and great weight; the judges who composed them were of exalted character, patriotism, learning, and ability. They had taken the same oath imposed upon the federal judges to support the constitution of the United States, together with the superadded obligation to maintain the constitutions of the States, whose judicial powers were confided to them.

The committee do not pretend to originality in the views and principles of this report; on the contrary, they believe they could not better discharge their duty, or render a more acceptable service to the House, than by presenting the authorities on which it is founded. Believing the section of the act referred to the consideration of the committee to be unconstitutional, they herewith report a bill to repeal the same.

## COUNTER REPORT UPON THE JUDICIARY.

HOUSE OF REPRESENTATIVES, JAN. 24.

The Committee on the Judiciary, to which was referred a resolution of the House of Representatives of the 21st ultimo, instructing them "to inquire into the expediency of repealing or modifying the twenty-fifth section of an act entitled "an act to establish the judicial courts of the United States," passed the 24th September, 1789, having made a report, accompanied by a bill to repeal the same, the minority of that committee, differing in opinion from their associates upon this important question, deem it to be their duty to submit to the House the following report:

The constitution of the United States has conferred upon Congress certain enumerated powers, and expressly authorizes that body "to make all laws which shall be necessary and proper for carrying these powers into execution." In the construction of this instrument, it has become an axiom, the truth of which cannot be controverted, that "the General Government, though limited as to its objects, is supreme with respect to those objects."

The constitution has also conferred upon the President,

\* *Hunter vs. Fairfax*—4th Munford.

\* 3d Dallas, 472.

"by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur," the power to make treaties.

By the second section of the sixth article of this instrument, it is declared, in emphatic language, that "this constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding."

The constitution having conferred upon Congress the power of legislation over certain objects, and upon the President and Senate the power of making treaties with foreign nations, the next question which naturally presented itself to those who framed it was, in what manner it would be most proper that the constitution itself, and the laws and treaties made under its authority, should be carried into execution. They have decided this question in the following strong and comprehensive language: "The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority." [Article 3, Sec. 2.] This provision is the only one which could have been made in consistency with the character of the Government established by the constitution. It would have been a strange anomaly had that instrument established a judiciary whose powers did not embrace all the laws and all the treaties made under its authority. The symmetry of the system would thus have been destroyed; and, in many cases, Congress would have had to depend exclusively for the execution of their own laws upon the judiciary of the States. This principle would have been at war with the spirit which pervades the whole constitution. It was clearly the intention of its framers to create a Government which should have the power of construing and executing its own laws, without any obstruction from State authority. Accordingly, we find that the judicial power of the United States extends, in express terms, "to all cases," in law and in equity, arising under the constitution, the laws, and the treaties of the United States. This general language comprehends precisely what it ought to comprehend.

If the judicial power of the United States does thus extend to "all cases" arising under the constitution, the laws and treaties of the Union, how could this power be brought into action over such cases without a law of Congress investing the Supreme Court with the original and appellate jurisdiction embraced by the constitution?

It was the imperious duty of Congress to make such a law, and it is equally its duty to continue it: indeed, without it, the judicial power of the United States is limited and restricted to such cases only as arise in the federal courts, and is never brought to bear upon numerous cases, evidently within its range.

When Congress, in the year 1789, legislated upon this subject, they knew that the State courts would often be called upon, in the trial of causes, to give a construction to the constitution, the treaties and laws of the United States. What, then, was to be done? If the decisions of the State courts should be final, the constitution and laws of the Union might be construed to mean one thing in one State, and another thing in another State.

All uniformity in their construction would thus be destroyed. Besides, we might, if this were the case, get into serious conflicts with foreign nations, as a treaty might receive one construction in Pennsylvania, another in Virginia, and a third in New York. Some common and uniform standard of construction was absolutely necessary.

To remedy these and other inconveniences, the first Congress of the United States, composed, in a considerable proportion, of the framers of the constitution, passed

the 25th section of the judicial act of the 24th September, 1789. It is in the following words:

"Sec. 25. *And be it further enacted*, That a final judgment or decree in any suit, in the highest court of law or equity of a State, in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under, any State, on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favor of such their validity; or where is drawn in question the construction of any clause of the constitution, or of a treaty or statute of, or commission held under the United States, and the decision is against the title, right, privilege, or exemption, specially set up or claimed by either party under such clause of the said constitution, treaty, statute, or commission, may be re-examined and reversed, or affirmed in the Supreme Court of the United States, upon a writ of error, the citation being signed by the chief justice, or judge, or chancellor, of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner, and under the same regulations; and the writ shall have the same effect, as if the judgment or decree complained of had been rendered or passed in a circuit court; and the proceeding upon the reversal shall also be the same, except that the Supreme Court, instead of remanding the cause for a final decision, as before provided, may, at their discretion, if the cause shall have been once remanded before, proceed to a final decision of the same, and award execution. But no other error shall be assigned or regarded as a ground of reversal, in any such case as aforesaid, than such as appears on the face of the record, and immediately respects the beforementioned questions of validity, or construction of the said constitution, treaties, statutes, commissions, or authorities, in dispute."

This section embraces three classes of cases. The first, those in which a State court should decide a law or treaty of the United States to be void, either because it violated the constitution of the United States, or for any other reason. Ought there not in such cases to be an appeal to the Supreme Court of the United States? Without such an appeal, the General Government might be obliged to behold its own laws, and its solemn treaties annulled by the Judiciary of every State in the Union, without the power of redress.

The second class of cases is of a different character. It embraces those causes in which the validity of State laws is contested, upon the principle that they violate the constitution, the laws, or the treaties of the United States, and have, therefore, been enacted in opposition to the authority of the "supreme law of the land." Cases of this description have been of frequent occurrence. It has often been drawn into question before the State courts, whether State laws did or did not violate the constitution of the United States. Is it not then essential to the preservation of the General Government, that the Supreme Court of the United States should possess the power of reviewing the judgments of State courts in all cases wherein they have established the validity of a State law, in opposition to the constitution and laws of the United States?

The third class differs essentially from each of the two first. In the cases embraced by it, neither the validity of acts of Congress, nor of treaties, nor of State laws, is called in question. This clause of the 25th section merely confers upon the Supreme Court the appellate jurisdiction of construing the constitution, laws, and treaties of the United States, when their protection has been invoked by parties to suits before the State courts, and has been

denied by their decision. Without the exercise of this power, in cases originating in the State courts, the constitution, laws, and treaties of the United States, would be left to be finally construed and executed by a judicial power, over which Congress has no control.

This section does not interfere, either directly or indirectly, with the independence of the State courts, in finally deciding all cases arising exclusively under their own constitution and laws. It leaves them in the enjoyment of every power which they possessed before the adoption of the federal constitution. It merely declares, that, as that constitution established a new form of Government, and consequently gave to the State courts the power of construing, in certain cases, the constitution, the laws, and the treaties of the United States, the Supreme Court of the United States should, to this limited extent, but not beyond it, possess the power of reviewing their judgments. The section itself declares that no other error shall be assigned or regarded as a ground of reversal, in any such case as aforesaid, than such as appears on the face of the record, and immediately respects the before mentioned questions of validity or construction of the said constitution, treaties, statutes, commissions, or authorities in dispute.

The minority of the committee will now proceed to advance, in a more distinct form, a few of the reasons why, in their opinion, the 25th section of this act ought not to be repealed.

And, in the first place, it ought to be the chief object of all Governments to protect individual rights. In almost every case, involving a question before a State court under this section of the judiciary act, the constitution, laws, or treaties, of the United States are interposed for the protection of individuals. Does a citizen invoke the protection of an act of Congress upon a trial before a State court, which decides that act to be unconstitutional and void, and renders judgment against him? this section secures his right of appeal from such a decision to the Supreme Court of the United States.

When a citizen, in a suit before a State court, contends that a State law, by which he is assailed, is a violation of the constitution of the United States, and therefore void, (if his plea should be overruled,) he may bring this question before the Supreme Court of the United States.

In like manner, when an individual claims any right before a State court under the constitution or laws of the United States, and the decision is against his claim, he may appeal to the Supreme Court of the United States.

If this section were repealed, all these important individual rights would be forfeited.

The history of our country abundantly proves that individual States are liable to high excitements and strong prejudices. The judges of these States would be more or less than men if they did not participate in the feelings of the community by which they are surrounded. Under the influence of these excitements, individuals, whose rights happen to clash with the prevailing feeling of the State, would have but a slender hope of obtaining justice before a State tribunal. There would be the power and the influence of the State sovereignty on the one side, and an individual who had made himself obnoxious to popular odium on the other. In such cases, ought the liberty or the property of a citizen, so far as he claims the same under the constitution or laws of the United States, to be decided before a State court, without an appeal to the Supreme Court of the United States, on whom the construction of this very constitution and these laws has been conferred, in all cases, by the constitution?

The Supreme Court, considering the elevated character of its Judges, and that they reside in parts of the Union remote from each other, can never be liable to local excitements and local prejudices. To that tribunal our citizens can appeal with safety and with confidence, (as

long as the 25th section of the judicial act shall remain upon the statute book) whenever they consider that their rights, under the constitution and laws of the United States, have been violated by a State court. Besides, should this section be repealed, it would produce a denial of equal justice to parties drawing in question the constitution, laws, or treaties of the United States. In civil actions, the plaintiff might then bring his action in a federal or State court, as he pleased, and as he thought he should be most likely to succeed; whilst the defendant would have no option, but must abide the consequences without the power of removing the cause from a State into a federal court, except in the single case of his being sued out of the district in which he resides; and this, although he might have a conclusive defence under the constitution and laws of the United States.

Another reason for preserving this section is, that, without it, there would be no uniformity in the construction and administration of the constitution, laws, and treaties of the United States. If the courts of twenty-four distinct, sovereign States, each possess the power, in the last resort, of deciding upon the constitution and laws of the United States, their construction may be different in every State of the Union. That act of Congress which conforms to the constitution of the United States, and is valid, in the opinion of the Supreme Court of Georgia, may be a direct violation of the provisions of that instrument, and be void, in the judgment of the Supreme Court of South Carolina. A State law in Virginia might in this manner be declared constitutional, whilst the same law, if passed by the Legislature of Pennsylvania, would be void. Nay, what would be still more absurd, a law or treaty of the United States with a foreign nation, admitted to be constitutionally made, might secure rights to the citizens of one State, which would be denied to those of another. Although the same constitution and laws govern the Union, yet the rights acquired under them would vary with every degree of latitude. Surely the framers of the constitution would have left their work incomplete, had they established no common tribunal to decide its own construction, and that of the laws and treaties made under its authority. They are not liable to this charge, because they have given express power to the Judiciary of the Union over "all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

The first Congress of the United States have, to a considerable extent, carried this power into execution by the passage of the judicial act, and it contains no provision more important than the 25th section.

This section ought not to be repealed, because, in the opinion of the minority of the committee on the judiciary, its repeal would seriously endanger the existence of this Union. The chief evil which existed under the old confederation, and which gave birth to the present constitution, was, that the General Government could not act directly upon the people, but only by requisition upon sovereign States. The consequence was, that the States either obeyed or disobeyed these requisitions, as they thought proper. The present constitution was intended to enable the Government of the United States to act immediately upon the people of the States, and to carry its own laws into full execution, by virtue of its own authority. If this section were repealed, the General Government would be deprived of the power, by means of its own judiciary, to give effect either to the constitution which called it into existence, or to the laws and treaties made under its authority. It would be compelled to submit, in many important cases, to the decisions of State courts; and thus the very evil which the present constitution was intended to prevent would be entailed upon the people. The judiciary of the States might refuse to carry into effect the laws of the United States; and without that appeal

to the Supreme Court which the 25th section authorizes, these laws would thus be entirely annulled, and could not be executed without a resort to force.

This position may be illustrated by a few striking examples. Suppose the Legislature of one of the States, believing the tariff laws to be unconstitutional, should determine that they ought not to be executed within its limits. They accordingly pass a law, imposing the severest penalties upon the collector and other custom-house officers of the United States within their territory, if they should collect the duties on the importation of foreign merchandise. The collector proceeds to discharge the duties of his office under the laws of the United States, and he is condemned and punished before a State court for violating this State law. Repeal this section, and the decision of the State court would be final and conclusive; and any State could thus nullify any act of Congress which she deemed to be unconstitutional.

The Executive of one of the States, in a message to the Legislature, has declared it to be his opinion, that the land belonging to the United States within her territory is now the property of the State, by virtue of her sovereign authority. Should the Legislature be of the same opinion, and pass a law for the punishment of the land officers of the United States who should sell any of the public lands within her limits, this transfer of property might be virtually accomplished by the repeal of the 25th section of the judicial act. Our land officers might then be severely punished, and thus prohibited by the courts of that State from performing their duty under the laws of the Union, without the possibility of redress in any constitutional or legal form. In this manner, the title of the United States to a vast domain, which has cost the nation many millions, and which justly belongs to the people of the several States, would be defeated or greatly impaired.

Another illustration might be introduced. Suppose the Legislature of Pennsylvania, being of opinion that the charter of the Bank of the United States is unconstitutional, were to declare it to be a nuisance, and inflict penalties upon all its officers for making discounts or receiving deposits. Should the courts of that State carry such a law into effect, without the 25th section there would be no appeal from their decision; and the Legislature and courts of a single State might thus prostrate an institution established under the constitution and laws of the United States.

In all such cases, redress can now be peaceably obtained in the ordinary administration of justice. A writ of error issues from the Supreme Court, which finally decides the question whether the act of Congress was constitutional or not; and if they determine in the affirmative, the judgment of the State court is reversed. The laws are thus substituted instead of arms, and the States kept within their proper orbits by the judicial authority. But if no such appeal existed, then, upon the occurrence of cases of this character, the General Government would be compelled to determine whether the Union should be dissolved, or whether there should be a recurrence to force—an awful alternative, which we trust may never be presented. We will not attempt further to portray the evils which might result from the abandonment of the present judicial system. They will strike every reflecting mind.

It has of late years been contended, that this section of the judicial act was unconstitutional, and that Congress do not possess the power of investing the Supreme Court with appellate jurisdiction in any case which has been finally decided in the courts of the States. It has also been contended, that, even if they do possess this power, it does not extend to cases in which a State is a party. On this branch of the question, we would refer the House to the very able and conclusive argument of the Supreme Court of the United States, in the cases of *Martin vs. Hunter's lessee*, (1st Wheaton, 304,) and *Cohens vs. the State of*

Virginia, (6 Wheaton, 264,) by which the affirmative of these propositions is clearly established. It may be proper, however, that we should make a few observations upon this part of the question. Those who have argued in favor of these positions, assert that the general words of the constitution, extending the judicial power of the Union "to all cases, in law and equity," arising under the constitution and laws of the United States, ought, by construction, to be restricted to such cases, in law and equity, as may originate in the courts of the Union. They would thus establish a limitation at war with the letter, and, in our opinion, equally at war with the spirit of the instrument. Had such been the intention of the framers of the constitution, they well knew in what language to express that intention. Had it been their purpose to restrict the meaning of the general language which they had used in the first clause of the section, they could have done so with much propriety in the second. This clause, after providing "that, in all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction," proceeds to declare "that, in all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make." On the supposition contended for, it is wholly unaccountable that the framers of the constitution did not limit the natural effect of the words used in the first clause, by making the second to read "that, in all the other cases before mentioned," arising in the inferior courts of the United States, "the Supreme Court shall have appellate jurisdiction." But no such restriction exists; and, from the fair import of the words used in both clauses, the Supreme Court possess the power of finally deciding "all cases, in law and equity," arising under the constitution, the laws, and the treaties of the United States, no matter whether they may have originated in a federal or in a State court, and no matter whether States or individuals be the parties.

But it is not our intention to enter into a protracted constitutional argument upon the present occasion, because this question has long since been put at rest, if any constitutional question can ever be considered as settled in this country. The Federalist, which is now considered a text-book in regard to the construction of the constitution, and deservedly so, as well from the great merit of the work, as the high character of its authors, is clear and explicit on this subject. After reasoning upon it at some length, the author of the 83d number of that production arrives at the following conclusion: "To confine, therefore, the general expressions which gave appellate jurisdiction to the Supreme Court to appeals from the subordinate federal courts, instead of allowing their extension to the State courts, would be to abridge the latitude of the terms, in subversion of the intent, contrary to every sound rule of interpretation."

The Federalist, it will be recollected, was written between the formation of the constitution and its adoption by the States. Immediately after its adoption, Congress, by passing the 25th section of the judicial act, now sought to be repealed, fully confirmed this construction. This appellate jurisdiction has ever since been exercised by the Supreme Court in a great variety of cases; and we are not aware that the constitutionality of its exercise has ever been questioned by the decision of any State court, except in a single instance, which did not occur until the year 1815. And even in that case, (*Hunter vs. Fairfax*,) the judgment of the Supreme Court was carried into effect according to the existing law, without endangering the peace of the country.

The last topic to which we would advert is, the claim which has been set up to exempt the judgments obtained by the States of this Union, before their own courts, in



civil and criminal suits, prosecuted in their name, from being reviewed by the Supreme Court of the United States upon a writ of error. Much stress has been laid by those who sustain this claim, upon the general proposition that a sovereign independent State cannot be sued, except by its own consent. But does this proposition apply, in its extent, to the States of this Union? That is the question for discussion.

We have in this country an authority much higher than that of sovereign States. It is the authority of the sovereign people of each State. In their State conventions they ratified the constitution of the United States; and so far as that constitution has deprived the States of any of the attributes of sovereignty, they are bound by it, because such was the will of the people. The constitution, thus called into existence by the will of the people of the several States, has declared itself, and the laws and treaties which should emanate from its authority, to be "the supreme law of the land;" and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.

Why, then, should a State, who has obtained a judgment in her own courts against an individual, in violation of this "supreme law of the land," be protected from having her judgment reversed by the Supreme Court of the United States? Is there any reason, either in the constitution or in natural justice, why judgments obtained by a State in her own courts should be held sacred, notwithstanding they violated the constitution and laws of the Union, which would not apply, at least with equal force, in favor of individual plaintiffs? The constitution subjects to the review of the Supreme Court all cases in law or equity arising under itself, or the laws of the Union. It excepts no case bearing this character. Whether the party be a State or an individual, all must alike bow to the sovereign will of the people, expressed in the constitution of the United States.

In suits brought by a State against an individual in her own courts, there is much greater danger of oppression, considering the relative power and influence of the parties, than there would be in controversies between individuals. And are these to be the only cases selected, in which the citizen shall not be permitted to protect himself by the constitution and laws of the Union before the Supreme Court of the United States? Is it not sufficient that, under the constitution, the States cannot be sued as defendants, without adding to this, by a strained and unnatural construction, the additional privilege that the judgments which they may obtain as plaintiffs or prosecutors before their own courts, whether right or wrong, shall in all cases be irreversible?

We will not repeat the considerations which have been already urged to prove, that, unless this provision of the constitution applies to the States, the rights of individuals will be sacrificed, all uniformity of decision abandoned, and each one of the States will have it in her power to set the constitution and laws of the United States at defiance.

The eleventh amendment to the constitution of the United States interferes in no respect with the principles for which we have contended. It is in these words:

"The judicial power of the United States shall not be construed to extend to any suit, in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State."

Chief Justice Marshall, in delivering the opinion of the court in the case of *Cohens vs. Virginia*, has given so clear, and, in our opinion, so correct an exposition of the true construction of the amendment, that we shall, in conclusion, present to the House a few extracts from that opinion, instead of any argument of our own. He says that "the first impression made on the mind by this

amendment is, that it was intended for those cases, and for those only, in which some demand against a State is made by an individual in the courts of the Union. If we consider the causes to which it is to be traced, we are conducted to the same conclusion. A general interest might well be felt, in leaving to a State the full power of consulting its convenience in the adjustment of its debts, or of other claims upon it; but no interest could be felt in so changing the relation between the whole and its parts, as to strip the Government of the means of protecting, by the instrumentality of its courts, the constitution and laws from active violation. The words of the amendment appear to the court to justify and require this construction.

"To commence a suit, is to demand something by the institution of process in a court of justice; and to prosecute the suit, is, according to the common acceptance of language, to continue that demand. By a suit commenced by an individual against a State, we should understand a process sued out by that individual against the State, for the purpose of establishing some claim against it by the judgment of a court; and the prosecution of that suit is its continuance. Whatever may be the stages of its progress, the actor is still the same. Suits had been commenced in the Supreme Court against some of the States before the amendment was introduced into Congress, and others might be commenced before it should be adopted by the State Legislatures, and might be depending at the time of its adoption. The object of the amendment was not only to prevent the commencement of future suits, but to arrest the prosecution of those which might be commenced when this article should form a part of the constitution. It therefore embraces both objects; and its meaning is, that the judicial power shall not be construed to extend to any suit which may be commenced, or which, if already commenced, may be prosecuted against a State, by the citizens of another State. If a suit, brought in one court, and carried by legal process to a supervising court, be a continuation of the same suit, then this suit is not commenced nor prosecuted against a State. It is clearly, in its commencement, the suit of a State against an individual, which suit is transferred to this court, not for the purpose of asserting any claim against the State, but for the purpose of asserting a constitutional defence against a claim made by a State.

"Under the judiciary act, the effect of a writ of error is simply to bring the record into court, and submit the judgment of the inferior tribunal to re-examination. It does not, in any manner, act upon the parties; it acts only on the record. It removes the record into the supervising tribunal. Where, then, a State obtains a judgment against an individual, and the court rendering such judgment overrules a defence set up under the constitution, or laws of the United States, the transfer of this record into the Supreme Court, for the sole purpose of inquiring whether the judgment violates the constitution or laws of the United States, can, with no propriety, we think, be denominated a suit commenced or prosecuted against the State, whose judgment is so far re-examined. Nothing is demanded from the State. No claim against it, of any description, is asserted or prosecuted. The party is not to be restored to the possession of any thing. Essentially, it is an appeal on a single point; and the defendant who appeals from a judgment rendered against him, is never said to commence or prosecute a suit against the plaintiff, who has obtained the judgment. The writ of error is given rather than an appeal, because it is the more usual mode of removing suits at common law; and because, perhaps, it is more technically proper, where a single point of law, and not the whole case, is to be re-examined. But an appeal might be given, and might be so regulated, as to effect every purpose of a writ of error. The mode of removal is form, not substance. Whether

it be by writ of error or appeal, no claim is asserted, no demand is made by the original defendant; he only asserts the constitutional right to have his defence examined by that tribunal whose province it is to construe the constitution and laws of the Union.

"The only part of the proceeding which is in any manner personal, is the citation. And what is the citation? It is simply notice to the opposite party that the record is transferred into another court, where he may appear, or decline to appear, as his judgment or inclination may determine. As the party who has obtained a judgment is out of court, and may, therefore, not know that his cause is removed, common justice requires that notice of the fact should be given him; but this notice is not a suit, nor has it the effect of process. If the party does not choose to appear, he cannot be brought into court, nor is his failure to appear considered as a default. Judgment cannot be given against him for his non-appearance; but the judgment is to be re-examined, and reversed or affirmed, in like manner as if the party had appeared and argued his cause.

"The point of view in which this writ of error, with its citation, has been considered uniformly in the courts of the Union, has been well illustrated by a reference to the course of this court in suits instituted by the United States. The universally received opinion is, that no suit can be commenced or prosecuted against the United States; that the judiciary act does not authorize such suits; yet writs of error, accompanied with citations, have uniformly issued for the removal of judgments in favor of the United States into a superior court, where they have, like those in favor of an individual, been re-examined, and affirmed or reversed. It has never been suggested that such writ of error was a suit against the United States, and therefore not within the jurisdiction of the appellate court.

"It is, then, the opinion of the court, that the defendant who removes a judgment rendered against him by a State court into this court, for the purpose of re-examining the question whether that judgment be in violation of the constitution or laws of the United States, does not commence or prosecute a suit against the State, whatever may be its opinion, where the effect of the writ may be to restore the party to the possession of a thing which he demands."

All which is respectfully submitted.

JAMES BUCHANAN,  
WM. W. ELLSWORTH,  
E. D. WHITE.

#### DISTRIBUTION OF SURPLUS FUNDS.

HOUSE OF REPRESENTATIVES, JANUARY 28, 1831.

Mr. POLK, from the select committee to which was referred so much of the President's message as relates to the "distribution of the surplus funds which may at any time remain in the Treasury after the national debt shall have been paid, among the States, in proportion to the number of their representatives, to be applied by them to objects of internal improvement," have had the subject under consideration, and submit the following report:

The proposition to distribute the surplus revenue among the States for purposes of internal improvement, submitted by the Executive to the consideration of Congress, is so intimately connected with the whole subject of internal improvement, in whatever form, or with whatever modifications, power over the subject has been heretofore attempted to be exercised by the Federal Government, that a comparative view of the whole subject, as well of the objections to each mode as heretofore attempted to be practised on, as to the plan proposed, and of the advan-

tages of each, is believed to fall within the scope of the appropriate duties of the committee, and is indispensable to a full development of the reasons which have induced them to come to the conclusions at which they have arrived.

They propose, therefore, as briefly as they can, to examine these various modes, as well in regard to their constitutionality as to their expediency, for the purpose of being enabled to present more distinctly and clearly the views which they entertain upon the particular proposition submitted by the President, and referred to their consideration by the House.

Before they do so, however, it may not be improper to state, that they fully concur with the President in recommending, for the present, "a rigid application of that portion of the public funds which might otherwise be applied to different objects, to that highest of all our obligations, the payment of the public debt;" and that, until the debt shall be finally extinguished, no money should be appropriated from the Treasury, to be applied either directly by the United States to objects of internal improvement, or to be distributed among the States, to be applied by them to such objects.

It may be proper to state, also, that, when the debt shall have been paid off, they are of opinion that the taxes should be either wholly repealed or greatly reduced upon many articles, especially upon such as are not produced in the United States, or, if produced, but to a limited extent; and upon such as may be considered necessities of life, consumed by the poor as well as by the rich, and the duties on which impose onerous burthens on all classes.

These preliminary considerations, which the committee have deemed it proper to state in this place, will be more fully noticed in a subsequent part of this report.

Attempts have been made to exercise a power on the part of the Federal Government over objects of internal improvement in three modes:

1st. To construct works of internal improvement within the limits of the States, assuming jurisdiction over the territory which they occupy, with a power to preserve them when constructed, and to punish offences committed on them.

2d. "To appropriate money from the national treasury, in aid of such works when undertaken by State authority, surrendering the claim of jurisdiction;" and,

3d. To aid in the construction of such works by "subscribing to the stock of private associations" or incorporated companies.

On a question so often and so ably discussed as that of the constitutional power of the General Government to construct or aid in the construction of works of internal improvement within the limits of the States, in any of these modes, the committee do not propose to make an extended argument, but simply to state the principles and authorities on which they rest their opinion.

In Mr. Madison's celebrated report of December, 1799, (a production believed to contain the soundest exposition of the true principles of the Federal Government extant,) a rule is laid down, which the committee adopt as a sound one, by which to determine whether a given power is granted by the constitution or not. That rule is this: "Whenever a question arises concerning the constitutionality of a particular power, the first question is, whether the power be expressed in the constitution. If it be, the question is decided. If it be not expressed, the next inquiry must be, whether it is properly an incident to an expressed power, and necessary to its execution. If it be, it may be exercised by Congress. If it be not, Congress cannot exercise it." Let, then, the power claimed be tested by this rule. It is not pretended that the power to make roads and canals is to be "found among the powers expressly vested in the Congress." If, then, it is not found among the powers expressed in the constitution, "is it properly an incident to an express power, and necessary to

its execution?" Is it an incidental power, without the aid of which any of the express powers cannot be executed. Incidental powers are confined in the constitution to the authority "to make all laws which shall be necessary and proper for carrying into execution" the enumerated powers; but under this power it cannot be claimed to do any thing which, in the opinion of Congress, might indirectly tend or remotely lead to such a result. A power, to be incidental, must not be exercised for ends which make it a principal or substantive power, independent of the principal power to which it is an incident. To be an incident to a principal expressed power, "*necessary and proper*" to the execution of that principal expressed power, it must be "*accessorial and subordinate to,*" and "*obviously flow from*" that expressed power. It must be a power "*appertaining to or following another, as more worthy or principal.*" It must be "*derivative, not primary and independent.*" By applying these rules of construction to the constitution, the committee came irresistibly to the conclusion, that the incidental power to make roads and canals is not necessary to the execution of any of the granted or express powers; that each of them may be carried into full effect without the aid of such an incident; and that, therefore, if assumed, it must be as a principal or substantive and distinct power of itself, no where to be found among the enumerated powers of the constitution; and that it results, therefore, that no such power exists.

As the Federal Government possesses no other powers than those specifically granted to it by the constitution, and as by the tenth amendment of the constitution, "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," those who affirm the existence of any particular power, whether express or implied, must produce the constitutional authority under which it is claimed, and that authority should be so clear as to leave no reasonable doubt of the fact of its existence, before its exercise can be justified; for the committee lay it down as a sound rule of legislative action, that, in all cases of well founded constitutional doubt, it is safest and wisest for all the functionaries of the Government to abstain from exercising the doubtful power. By acting affirmatively, they would assume the exercise of a doubtful power, which may not exist, and may thereby exceed their authority, and produce an infraction of the constitution. Have the advocates of the particular power in question produced the clear and undoubted constitutional authority under which it is claimed? They all claim it as an incident to some one or other of the enumerated or granted powers, but have not been able to agree among themselves to which of the granted powers it is properly incidental. It is obvious, therefore, that it does not necessarily "appertain to" or "obviously flow from" either of them. They may all be executed and carried fully into effect without its aid. That clause of the constitution, in regard to the "general welfare," has, it is believed, been very generally abandoned, even by the advocates of the broadest construction of the constitution, as containing no enlargement of the specific granted powers. Have those, it is repeated, who maintain the existence of this power, produced the clear and undoubted constitutional authority under which it is claimed? or have they not rather, at the same time that they differ in opinion with each other as regards the sources from which it is to be derived, by implication and forced construction, assumed its exercise without any practicable limitations, and thus made it a principal power, no where to be found in the constitution?

A construction of the constitution so broad as that by which the power in question is defended, tends imperceptibly to a consolidation of all power in a Government intended by its framers, and so declared by the parties to it, to be one of limited and specific powers. "To conso-

lidate the States into one sovereignty," says Mr. Madison, in his report before referred to, "nothing more can be wanted than to supersede their respective sovereignties, in the cases reserved to them, by extending the sovereignty of the United States to all cases of the 'general welfare'; that is to say, to all cases whatever."

"That the obvious tendency and inevitable result of a consolidation of the States into one sovereignty would be to transform the republican system of the United States into a monarchy, is a point which seems to have been sufficiently decided by the general sentiment of America. In almost every instance of discussion relating to the consolidation in question, its certain tendency to pave the way to monarchy seems not to have been contested. The prospect of such a consolidation has formed the only topic of controversy."

To guard, therefore, against the assumption of all powers which encroach upon the reserved sovereignty of the States, and, consequently, tend to consolidation, is the duty of all the true friends of our political system. The assumption and the exercise, by the Federal Government, of constructive and far-fetched incidental powers, are the passes through which, if ever, our liberties may be invaded. In a Government like ours, there is less danger from an open enemy to our system, who unmasks himself, and boldly avows his purpose, than from the gradual, silent, and almost imperceptible encroachments by the Federal Government. Our experience has shown, it is believed, the continually manifested propensity of the departments of the General Government to amplify and strengthen its powers at the expense of the reserved sovereignties of the States. And who can doubt, if all the incidental and constructive powers which have at different times been claimed, (each resting on no worse foundation than the one in question,) had been assumed and exercised, that the whole character of our Government would have been radically changed? And yet each, when considered separately and by itself, did not seem likely to portend such consequences. The committee would not, if they could, excite any unjust odium against the opinions (honestly entertained, they have no doubt,) of those who differ with them in regard to the existence and tendency of the particular power in question; yet they must say that the general course of reasoning by which the power to pass the "alien law," and also the "sedition law," was defended, is substantially of the same character as that employed to sustain the power in question. Let this be illustrated according to the rule which they have adopted as a sound one. There is no express power granted in the constitution authorizing Congress to pass either of those obnoxious laws. It was claimed by its advocates as a power incidental to some of the granted or express powers, "necessary and proper" to carry such express power into execution. The power to pass the "alien law" was claimed as an incident, by a committee of Congress, in a report to the House of Representatives of February 21, 1799, in the following terms: "The right of removing aliens, as an incident to the power of war and peace, according to the theory of the constitution, belongs to the Government of the United States." The power to pass the "sedition law" was claimed by one of the States [Massachusetts,] in her response to the Virginia resolutions, in the following terms: "Whenever, therefore, it becomes necessary to effect any of the objects designated, it is perfectly consonant to all just rules of construction to infer that the usual means and powers, necessary to the attainment of that object, are also granted." Thus, by construction, the constitutional power to pass the "sedition law" was claimed, as the particular power now in question is, as an incidental power, or, what is precisely the same thing, as the "usual means and powers" necessary to the execution of some of the granted powers. It is true that the "sedition law" was a palpable violation of

that article of the constitution which provides that "Congress shall make no law abridging the freedom of speech or of the press;" but that does not change the nature of the argument by which these constructive and incidental powers are claimed; for it was gravely maintained that the "sedition law" was no "abridgment of the freedom of speech or of the press," but was a punishment inflicted for the abuse of this license.

It is no part of the purpose or of the duty of the committee, in this place, to discuss the constitutionality of the "alien and sedition laws." Their object was simply to bring to the notice of the House the general reasoning by which the power to pass them was gravely claimed by their advocates, as illustrative of the danger of departing from the plain sense and intention of the constitution, and resorting to vague constructions and inferences, on which to exercise power. The moment we resort to these loose generalities on which to found powers, they become the chief or principal powers, restrained only by the discretion or accidental will of Congress; render nugatory all the limitations of power in the constitution; and make the Government, in fact, one of unlimited powers.

There is no want of patriotism or attachment to our free institutions among our citizens; but the great misfortune under which the country labors on the subject of internal improvement is, the difficulty of rousing the attention of our people to the great importance of adhering to the written constitution. The usurpation of the power to pass the "alien and sedition laws" shocked the public on points on which they were sensitive—the "liberty of the person," and the "freedom of speech and of the press;" and by one general sentiment it was arrested, and its advocates hurled from power. The cause of the different effects upon public sentiment, produced by the exercise of the power thus usurped and promptly arrested, and the power now claimed to carry on a system of improvement, by means of roads and canals, constructed by the General Government, within the territorial jurisdiction of the States, is not that they are powers of a different genus, for both are derived as incidents, and sustained by the same latitudinous mode of construction; but the difference is, that, in the latter case, the usurpation is sweetened and rendered palatable by addressing itself to the selfish interests of sections; the promises it holds out of individual benefit and national prosperity are so seductive as to blind us to the fatal tendency of the principles by which it is sustained. Large amounts of the people's money are promised to be expended in unequal proportions, in particular sections of country, and its recipients are very naturally reluctant to turn from their real or supposed immediate interests, and to examine the dry and abstract, but at the same time vital, question—does the constitution confer upon the Government of the United States the power to tax the whole people of the Union for our local and sectional advantage? Thus, very many honestly acquiesce in the usurpation of the power, who, if they could examine it apart from the influence of its connexion with their immediate interests, would not only admit the alarming tendency of the principles on which alone it can rest, but come to the conclusion that there was no constitutional warrant for its exercise, and that it was important to the success of the great experiment which we are making for the world, as to the capacity of man for self-government, and the value of written constitutions, that it should not be usurped.

The committee think that such an examination, if the public mind could be roused from the apparent lethargy and false security in which it reposes, and induced to make it, would result in satisfying all disinterested men of all parties, in the language of Mr. Jefferson, in the last communication which he ever made on the subject, (that to Mr. Madison, of December 24th, 1825,) that the "right to construct roads, open canals, and effect other internal im-

provements within the territory and jurisdictions exclusively belonging to the several States," "has not been given to that branch [the General Government] by the constitutional compact, but remains to each State among its domestic and unalienated powers, exercisable within itself and by its domestic authorities alone;" and also with him to "declare to be most false and unfounded the doctrine, that the compact, in authorizing its federal branch to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States, has given them thereby a power to do whatever they may think or pretend would promote the general welfare, which construction would make that of itself a complete government without limitation of powers; but that the plain sense and obvious meaning were, that they might levy the taxes necessary to provide for the general welfare, by the various acts of power therein specified and delegated to them, and by no others."

It has been urged that this power must exist, and is fairly to be inferred, because of the necessity which existed for the exercise of such a power at the time of the adoption of the constitution, and from the supposed fact that these avenues and highways are indispensable to connect together distant parts, and bind in indissoluble chains the union of the States. If such artificial ligaments were indispensably necessary for the prosperity of the country or the preservation of the Union, it is but reasonable to suppose that the constitution would have contained an express grant of a power conceived to be so important. None such was granted; but, on the contrary, propositions to confer it were more than once expressly refused by the federal convention which framed the constitution. One of these propositions, made in the convention, and which they refused to adopt as a part of the constitution, was, to establish the office of \* "Secretary of Domestic Affairs," and to make it his duty to "attend to matters of general police, the state of agriculture and manufactures, the opening of roads and navigations, and the facilitating communications through the United States." The federal convention, then, having the subject expressly before them, failed to insert in the constitution a grant of a power now claimed to be so indispensable; and the inference, therefore, is conclusive, that they intended to confer no such power.

The committee, without attempting to adduce all the arguments or authorities upon the question, come to the conclusion with the President, that the power to construct roads and canals within the States has not been conferred by the constitution; and they are also of opinion, that the power to appropriate money to aid in their construction, although sanctioned to some extent by usage, is of too doubtful a character to justify its exercise without a previous amendment of the constitution. They agree with him, that "the successful operation of the federal system can only be preserved by confining it to the few and simple, but important, objects for which it was designed." They agree with him, too, in the conviction "of the importance of sustaining the State sovereignties, as far as is consistent with the rightful action of the Federal Government, and of preserving the greatest attainable harmony between them;" and "that the political creed which inculcates the pursuit of these great objects as a paramount duty, is the true faith, and one to which we are mainly indebted for the present success of the entire system, and to which we must alone look for its future stability."

The committee having thus arrived at the conclusion that the power to prosecute works of internal improvement, in either of the three modes stated, has not been conferred by the constitution on the Federal Government,

\*Journal of the Federal Convention, page 266.

or, if conferred, is at least of too doubtful character to justify its exercise, the inquiry next occurs, whether the power to make the proposed distribution of the surplus funds among the States, for purposes of internal improvement, has been conferred by the constitution.

On this point the committee would remark, that the objections stated to the former seem to apply with all their force to the latter. It requires no argument to prove that what the Federal Government does not possess the power to do directly, it cannot do indirectly. The committee do not understand the President, in his several messages, as affirming the existence of the power; but, after stating the insuperable objections to the present plan, he says, "To avoid these evils, it appears to me that the most safe, just, and federal disposition which could be made of the surplus revenue, would be its apportionment among the several States, according to their ratio of representation; and, should this measure not be found warranted by the constitution, that it would be expedient to propose to the States an amendment authorizing it. I regard an appeal to the source of power, in cases of real doubt, and when its exercise is deemed indispensable to the general welfare, as among the most sacred of all our obligations. Upon this country, more than any other, has, in the providence of God, been cast the special guardianship of the great principle of adherence to written constitutions. If it fail here, all hope in regard to it will be extinguished. That this was intended to be a government of limited and specific, and not general powers, must be admitted by all; and it is our duty to preserve for it the character intended by its framers. If experience points out the necessity of an enlargement of these powers, let us apply for it to those for whose benefit it is to be exercised, and not undermine the whole system by a resort to overstrained constructions." If, then, it were even matter of doubt, we should rather seek an enlargement of the power in the constitutional mode than assume its exercise without it. The committee are, therefore, of opinion, that the proposed distribution of the surplus, should it hereafter be the policy of the Government to adopt that plan, must be authorized by an amendment of the constitution. On this point, too, the committee are not without authority. The Bonus Bill, rejected by Mr. Madison as unconstitutional, on the 3d of March, 1817, was, in many respects, analogous in its provisions to the proposition now under consideration. That bill appropriated, set apart, and pledged a fixed sum annually, being the Government bank bonus, and the dividends on the Government stock in the Bank of the United States, for purposes of internal improvement. By the provisions of that bill, this annual sum, thus appropriated and set apart, was to be apportioned and divided, as it annually accrued, among the several States, in the ratio of their representation in Congress, to be applied, with the assent of each State, by the Federal Government, to objects of improvement within each State. The proposed plan is to distribute the annual surplus for the same purposes, and in the same ratio, but to be applied by the States. The difference between the two plans consists simply in the agent to be employed in the application of the money. The former required the permission of the State within whose limits the improvement was to be made, to authorize the United States to apply it; the latter proposes to give the money to the States, to be applied by them, each within its own limits. So far as the constitution is supposed to confer the power to do either the one or the other, it is difficult to perceive the difference, and none, in fact, is believed to exist. Assuming that Mr. Madison was right in putting his veto on the Bonus Bill, the committee conceive that they are sustained by the weight of his high authority in denying to the Federal Government the power in question, and that it cannot be safely exercised without a previous amendment of the constitution.

The attention of Mr. Jefferson, too, was at an early period called to the subject, in anticipation of an expected surplus in the Treasury, "not wanted for any existing purpose;" and, in his annual message of December, 1806, he submits to Congress what disposition it might be proper to make of it; and, after suggesting as objects to which it might be beneficially applied, "public education, roads, rivers, canals, and such other objects of public improvement as it may be thought proper to add to the constitutional enumeration of federal powers," he adds, "I suppose an amendment to the constitution, by consent of the States, necessary, because the objects now recommended are not among those enumerated in the constitution, and to which it permits the public moneys to be applied." To dispose of the surplus, therefore, in any mode, for those objects, he supposed an amendment of the constitution necessary.

If the power to make the proposed distribution be now vested in Congress by the constitution, the inquiry may well be made, how the Government of the United States is to enforce the faithful application of the funds when distributed to the States. A State, for instance, receives her quota in the general dividend, and chooses to put it into her State treasury, and to apply it, not to objects of improvement within her limits, as intended by Congress, but to the support of her own Government. How is she to be forced to do so? She cannot be arraigned at the bar of the Federal Government, and tried and punished for her default. Is her quota for the future to be withheld from her, and given to others? That would be unjust; for a proportion of the federal taxes, from which the surplus has been derived, has been paid by her citizens. How, then, is she to be coerced to apply the money as directed by Congress? A law without a sanction is a dead letter, unless the party upon whom the obligation is imposed shall voluntarily perform it. Without such sanction, on the one hand, the object of the Government of the United States in making the distribution would be dependent on the separate will of each State; and, on the other, it would behave the States to consider how far such sanction, if assumed without a previous amendment of the constitution, with proper limitations and guards, might destroy or weaken the separate and independent sovereignties of the States. These, among other difficulties inseparably connected with the subject, are merely stated by the committee for consideration and reflection, should Congress undertake, without a previous amendment of the constitution, to adjust this most difficult and vexatious question.

If the Government of the United States possess the power, under the constitution, to distribute the common funds of the Union in the manner proposed at all, it must possess it to the most unlimited extent. If Congress may, by means of impost duties and excises, first collect from the people an amount limited only by their discretion, and next divide it out again among the States, without any power or control over the States in its expenditure, each State may, if it chooses, repeal its internal taxes, and apply its dividend to the support of its own State Government. The General Government would thus become the mere agent or tax-gatherer of the States, to collect the State revenue, and, as must happen, in unequal proportions, from the whole people in the Union, to be applied to the support of the State Governments. At the formation of the constitution, was any such agency necessary, or was any such intended to be conferred? In looking to the causes which led to the adoption of the present constitution, it was never heard of as one, that the States had any difficulty, under the articles of confederation, in collecting the necessary revenue for the support of their respective State Governments. That constituted no part of the evil or inconvenience complained of, and intended to be remedied or provided for by the new constitution. Nor did the States intend to confer upon the new Government which they



were about to create a power to collect revenue for any such purpose. That was a part of their inherent sovereignty, which they chose to retain; and, had they parted with it, they would have been reduced to a state of dependence on the new Government, wholly subordinate to it, and utterly incompatible with the idea of their reserved sovereignty, which it cannot be seriously urged by any was intended. Yet, give to the Federal Government an unlimited power to collect money by taxes on the people, and an unlimited power to disburse it by distribution among the States, without any power over its application when disbursed, and this will be the practical operation. And if this be the practical operation, it is difficult to conceive what more is wanted to make the Government of the Union one of consolidated power. The power "to lay and collect taxes, duties, imposts, and excises," was conferred, not for the purpose of raising money, that it might be given back again to the States, either for the purpose of supporting the State Governments, or for any other purpose, but for great national and general purposes, enumerated and limited by the constitution itself. It was granted to the Federal Government, because it was absolutely necessary to the continued existence and successful operation of the new Government itself. It was granted, first, to render the taxes, duties, imposts, and excises, which might be imposed, and their collection, uniform in all the States, and thereby to remedy the evil and inconvenience, not to say injustice, of the countervailing regulations, which, before that time, were frequently resorted to by the States, as against foreign nations, and against each other; and, secondly, to enable the new Government to provide for its own necessary support, and to pay the debts, without being dependent on the tardy and uncertain contribution of the quotas before that time required to be furnished by the States.

The committee have now presented to the House the opinions which they entertain, as well as the reasons and authorities on which those opinions rest, in regard to the question of constitutional power, which they have regarded as the paramount question involved in the examination of the subject referred to them. If the House shall not concur with them in opinion, but shall believe that the power has been conferred upon the Federal Government to engage in a system of internal improvement in either of the three modes first above specified, constituting the present plan, then the following may be stated as some of the objections to the expediency of prosecuting such a system in either of those modes, which, it is believed, would not apply to the plan of distribution of the surplus funds among the States, should the House be of opinion, also, that the power has been conferred, or that it would be expedient hereafter, by a suitable amendment of the constitution, with proper limitations and guards, to confer it.

1st. Owing to an unavoidable difference of opinion, extensively prevailing both in and out of Congress, in regard to the present plan, our past experience has shown that one section of the Union has been found arrayed against another: State has been opposed to State; and, by looking to the votes in Congress upon all appropriations for improvement, in whatever shape proposed, they will be found to be strongly marked by geographical boundaries. The people of different sections of the Union are thus made to regard each other rather as domestic enemies and rivals in interest, than as members of the same common Government, possessing a common interest. Prejudices are engendered, and sectional feelings excited, calculated to produce the most deleterious and fatal effects upon the harmony of our Union, and against which our first venerated Chief Magistrate, drawing upon the fund of his ample experience, and speaking from his extensive observation and intimate practical knowledge of our political condition, warned us.

2d. It tends inevitably to corruption—to what, in common parlance, is understood by political "log-rolling," and to a wasteful and improvident expenditure of the public money. Combinations of sectional and local interests will be formed, strong enough to carry through Congress every proposition for improvement, whether useful or not, whether local or national in its character, and without regard to the general interests of the whole.

3d. If it be attempted to confine the action of the Government to works of a national and not local character—a distinction, the disregard of which "would of necessity lead to the subversion of the federal system"—yet, in the language of the President, by whom this distinction is referred to, "that even this is an unsafe one, arbitrary in its nature, and liable, consequently, to great abuses, is too obvious to require the confirmation of experience." To this it may be added, that endless and vexatious disputes would arise in Congress, and between Congress and the Executive, in determining what is national and what is local. Each branch must, of consequence, act upon its own arbitrary opinion. One Congress may commence a work as national, and a succeeding Congress may think it local, and withhold the appropriation to complete it. So, one President may give his sanction to a particular measure as national, and his successor, considering it as local, may withhold his approval. There is no criterion or fixed rule by which the question can be settled or satisfactorily determined.

4th. It disturbs and destroys that harmony which should ever prevail in our legislative councils.

5th. If the system continues on the present plan, the representatives of the people, instead of acting for the general interests of the whole, are to be engaged in a disreputable scramble for the public money, each acting with a view solely to the sectional and local interests of his immediate constituents.

6th. A necessary consequence of the objections stated will be unequal and unjust appropriations of the public money, even in those sections of the Union whose representatives may advocate the policy. Is it just, for instance, that New York, Pennsylvania, and other States, who have already taxed their own citizens to make their own internal improvements, should now be required to submit to the collection of additional taxes, levied on their citizens by the Federal Government, to make improvements in other States? The inequality, is, however, more strikingly illustrated, when we look to those sections of the Union whose representatives either doubt the existence of the power, or think it inexpedient to exercise it; who cannot, consistently with their opinions, engage in the general scramble for their share, and whose constituents, therefore, who equally contribute to supply the treasury with money, do not participate in the appropriations for these objects. Thus, a very large portion of the Union, in numbers and in geographical extent, which contributes at least its equal proportion of the taxes for the support of Government and the payment of the debt, are compelled to see the national treasure, instead of being applied to the legitimate objects for which it was raised, unequally disbursed, and often improvidently squandered on objects of mere local improvement, no portion of which ever returns to large sections of country, whose inhabitants have been taxed to pay it.

The distribution of the surplus which may at any time remain in the treasury, among the States, in some fixed, rateable, and equitable proportion, it is believed, would be exempt from these objections; and to this extent, if it be the future policy of the Government to prosecute works of this kind, it would be the preferable mode.

The objections which have been made to the plan of distribution, and the answers to them, as stated by the President, have received the attentive consideration of the committee, and they come to the conclusion that "the

nature of the subject does not admit of a plan wholly free from objection."

The committee do not understand the President as recommending the creation of a surplus for the purpose of distributing it out again among the people or the States; but they understand the recommendation to proceed upon the idea that it may not be possible, in reference to other great interests in the country, so to adjust our system of revenue, until a remote period, as not to leave a surplus in the Treasury over the current demand; and, in that event, the proposition to provide in time for its distribution, by constitutional amendment, (if amendment be deemed necessary,) although admitted to be attended with many difficulties, is submitted by him for the "discussion and dispassionate consideration" of Congress, as a plan preferable to any of those heretofore attempted to be practised on.

The committee can readily perceive the difficulty, and indeed impossibility, of devising any system of revenue, whether levied in the shape of direct or indirect taxes on the people, that shall make the receipts into the Treasury, for any given period of time, precisely equal to the expenditures. Our revenue is at present collected in the shape of indirect taxes on the people, by duties on imports, and by the sales of the public lands—the amount of ther of which for a given period cannot be foreseen or known. The safety of the Government, and the public credit, may at all times require a small annual excess of receipts over the current expenditures, to meet exigencies, public defalcations, and unforeseen contingencies. But though this must be the case, it is believed that there is nothing to justify the imposition of an additional, and perhaps onerous, tax on the people, not wanted for the ordinary and useful or necessary purposes of the Government in its ordinary functions, but for the purpose avowed at the time of levying the tax, of creating a surplus fund to be divided out again among the people or the States. Nor do the committee so understand the Executive recommendation. That no such surplus fund should be collected from the people, to be divided out again among the people, is evident from the consideration alone, that the expenses of collection and disbursement must be paid; and to that extent the substance of the people is drawn from them, and, in the end, they receive, in the distribution, after having been deprived of the use of it for a time, nothing more than their own money, diminished in amount. This would be the case upon the supposition that the taxes were contributed equally by the people of each State, ascertained on the basis of representation, which, in the very nature of things, cannot possibly happen in a Government like ours, embracing within its limits such a variety of climate, population, and productions, and giving rise to such a variety of pursuits in its different parts. But whether the taxes be levied equally or unequally on the people, the committee have no hesitation in giving it as their opinion, that, after the public debt shall have been paid off, no more money should be drawn into the Treasury from the people than shall be necessary for the proper and legitimate administration of the Government. They fully accord with the President in the sentiment expressed in his message of the 27th of May last, returning, with his reasons for its rejection, the Maysville road bill, to the House of Representatives, that, however important improvements are admitted to be, they are not the only objects "which demand the fostering care of the Government. The preservation and success of the republican principle rest with us. To elevate its character, and extend its influence, rank among our most important duties; and the best means to accomplish these desirable objects are those which will rivet the attachment of our citizens to the Government of their choice, by the comparative lightness of their public burthens, and by the attraction which the superior success of its operations will present to the admiration and respect of the world." They are

of opinion, further, "that the resources of the nation, beyond those required for the immediate and necessary purposes of the Government, can no where be so well deposited as in the pockets of the people." Ours was intended to be a plain and a cheap Government, not a splendid or expensive one; not one imposing unnecessary burthens on its citizens.

But it is only in the event that, after the payment of the debt, there shall be found in the Treasury an accumulating annual surplus over and above the current expenses, which the Government know not how otherwise to dispose of, that the question arises, what is to be done with it? The complaint in most Governments is, that the rulers cannot wring from their subjects money enough, and are compelled to resort to loans. In this, we shall have paid off the debt, and, in the case supposed, will have drawn from the people more money than we have any use for, for constitutional purposes; and the question of difficulty with us will be, in what manner we shall dispose of it. The obvious answer, it seems to the committee, is, to reduce the taxes to the standard of the demands of the Government for all its constitutional purposes, and leave what would otherwise be surplus in the pockets of the people. That this may be safely done, without prejudice to any other great interest of such paramount importance as to require that the whole people of the Union should be taxed beyond the amount required for the support of Government, they do not hesitate to believe.

After the debt shall have been paid, that a reduction of the taxes should be made, and, the committee believe, may be safely made, to the amount of the sinking fund at present applicable to the payment of the debt; and, in that event, there being no surplus in the Treasury, the necessity may not occur for devising a plan for its disbursement and distribution. That such a reduction of the taxes as shall be equivalent to the amount now annually applied to the payment of the debt may be made, without injuriously affecting any of the great interests of the country now protected, and to the great relief of all those who have heretofore borne the chief burthens of the debt, is not doubted. The annual sinking fund now applicable to the payment of the public debt, is ten millions of dollars, and such further sum as may at any time remain unappropriated in the Treasury. This large amount, beyond the sum required to defray the ordinary expenses of the Government, has been heretofore cheerfully paid by the people, because it was "thought to be necessary to the support of Government, and the payment of the debts unavoidably incurred in the acquisition and maintenance of our national rights and liberties." But when the debts are paid, and the necessity for the continuance of the taxes to this amount will no longer exist, will not the people demand, and will they not have a right to demand, at the hands of their representatives, a reduction of their taxes to that amount? The character of the American people is greatly mistaken, or they will make that demand. Not to do it, would be to consent to be unnecessarily taxed, for the collection of money into the Treasury, to be scrambled for by their representatives, or to be a "bone of contention," distracting our deliberations, and marring the harmony of the Union. That this reduction may be made without injuriously affecting any of the great interests of the country now protected, the committee believe may be satisfactorily demonstrated. It is stated in the report of the Secretary of the Treasury, at the commencement of the last session of Congress, that the amount of duties paid into the Treasury for the preceding year, (1828,) on articles not produced, or but partially produced, in the United States, was \$7,550,842 13. A total repeal of these, should this be deemed advisable, would certainly operate to the advantage of all interests, agricultural, commercial, and manufacturing. If this be done, and a reduction be made of the taxes which have heretofore "borne severely

upon the laboring and less prosperous classes of the community, being imposed on the necessities of life," the amount of reduction would be equal to the sinking fund, and, as the committee conceive, could operate no injury to any interest, but, on the contrary, be decidedly advantageous to all.

If, in the contingency, this should not be the case, and there should remain a surplus in the treasury to be disposed of, they concur in the opinion, that the present plan of prosecuting works of internal improvement is the "worst that could exist;" and if it shall be the future policy of the Government to employ any portion of its funds in works of this character, in any mode, the plan of distribution is, in their opinion, decidedly preferable to it. That plan, whatever it may be, they have said they believed must be by an amendment of the constitution. They do not deem it necessary, however, thus far in advance of the period when the national debt, by the observance of the most rigid economy, can be paid, to recommend to the House any plan of amendment. As by the constitution the power to propose amendments is possessed by the States as well as by Congress, they have thought it preferable simply to present their views on the whole subject, and submit it to the consideration of the States, (if, in their opinion, proper to do so,) to propose such amendments to the constitution, consistently with their respective sovereignties, vesting in the Government of the United States such additional powers as they may deem it wise and safe to confer upon it. As any such amendment would divest the States of a portion of their present power, and confer it upon the Government of the Union, there would seem to be a peculiar fitness that the proposition should originate with the parties who are about to surrender up a part of their powers. Doubtless, if any plan can be devised which shall preserve the balance of power between the respective State and Federal Governments, and which shall promise to operate for the general advantage of the whole Union, a constitutional majority of the States will adopt it as a part of the constitution. The committee are of opinion, that, in a Government like ours, it is at all times safe, and certainly wise, in all cases of a questionable or doubtful power, to apply to the people, the only true source of power, to explain, enlarge, or restrict it. And they are willing to believe that there is no State in the Union that would not prefer such a resort to the opinion of her sister States, upon a great question of constitutional doubt, to an assumption of the contested power on the part of the Federal Government, however much such assumption might be calculated to promote her immediate and local interests.

With these views, the committee submit the subject referred to them to the further consideration of the House, and of the States, not doubting that it will elicit all that deliberate consideration which its paramount importance, in all its bearings, demands.

#### COLUMBIA RIVER.

*Letter from General Ashley to the Secretary of War.*

WASHINGTON CITY, March, 1829.

SIR: You request me to communicate to you, by letter, my opinion, as it regards a military force best calculated for the protection of our Western frontier, the fur trade, and our trade and intercourse direct from Missouri and Arkansas to the Mexican provinces, &c.

In answer to your first inquiry, I will remark, that my ideas on this subject were communicated to a part of the representation in Congress from Missouri three years ago. I then did, and do yet, believe, that a mounted force is the only one that can operate advantageously in that country. This force ought, in my opinion, to consist of about five hundred mounted riflemen, who should be enlisted expressly for that service, anticipating, at the time of

enlistment, the privations peculiar to it, or selections made of suitable men now in the army. These troops ought to subsist themselves, which they could do with convenience so soon as the officers become acquainted with the country in which they would have to operate. In addition to the rifle, one-half of the command should be armed with sabres. Four pieces of light artillery would be found convenient and useful. The patent rifle which I examined in your office appears in one particular to be well calculated for this service, inasmuch as it can be conveniently and quickly charged on horseback; but I have been heretofore prejudiced against this description of guns, believing that they were subject, by use, to get out of order, and could not be repaired without much difficulty. Putting, therefore, these guns out of the question, of the utility of which I know but little, I would recommend a rifle, the barrel of which should not exceed three feet in length, carrying a ball weighing about three-fourths of an ounce, and having metal sufficient to support a ball of that size. I have used the percussion locks but little, but believe them admirably well constructed for general use, but more particularly for the prairies, where severe winds and rains prevail at certain seasons of the year. Great convenience would be experienced by having every gun of the same dimensions, every spring, screw, &c. of the locks, of the same size and form. This being the case, every material of one would fit, and might be used in any one. The gun stick, or thimble rod, ought to be of large size, and of wood; iron sometimes batters the muzzle, and makes the gun shoot wild. The only difference should be in the length of the breech: some should, in this particular, be longer than others, to suit the arms of those who use them. In their weight, and in every other particular except the breech, they ought to be the same. In that case, when a man became accustomed to the use of one, he could, with the same convenience, use any one of them. The sabre will be found useful, and almost indispensable, in operations against Indians mounted on horseback, and armed with bows and arrows, which they use with great dexterity and effect. The Indians in the vicinity of the Rocky Mountains are very much in the habit of fortifying some strong point convenient to where they intend attacking their enemy, by the way of covering their retreat, if unsuccessful, and fearing pursuit. They use the same precaution when encamped, whenever they apprehend danger. When covered in this way, they fight desperately before they can be ousted. It is in cases of this kind, as well as in many others, that artillery would be found convenient.

Five hundred troops, armed and equipped as proposed, would, in my opinion, be sufficient to contend against any Indian force that could be conveniently brought against them; a much less number might be in danger of defeat, provided the Indians generally should be disposed to war against us. It seems to me that, if the Government undertake to protect the frontiers and trade in question, it ought to be done effectually. No half-way measures should be adopted; show a sufficient force in the country to put down all opposition, and all opposition will cease without shedding of blood. But show an incompetent force, which may tempt the Indians to attack and defeat it, and the result will not only be the loss of many lives and extreme mortification, but the expenditure of money to reach the object in view more than perhaps five or ten times the amount which will be necessary, should the Government pursue the proper course in the first instance. The protection to be afforded should be extended as equally as practicable to all our citizens engaged in the trade of that country, whether to Santa Fe or with the Indians. And as it cannot be expected that every caravan will be furnished an escort, let its destination be where it may, the force ought, therefore, to be sufficient to overawe the Indians, and thereby render escorts unnecessary.

It seems to me that economy of lives and money dictates this course. To operate against the Indians who have heretofore committed outrages upon our Santa Fe traders, one hundred men would be all-sufficient; but it is reasonable to suppose that the success of the offenders on this route will induce others to join them.

Let us consider the force of the Indians in that quarter who are now recognised as our enemies; those who have taken a menacing attitude, and those who are, or pretend to be, friendly, but who may be brought to action against us. In this way it may be better seen whether protection is necessary, and what that protection ought to be. The Indians south of the Arkansas river I know but little about; they are very troublesome to the Spanish settlements, and are considered dangerous in that quarter. They are charged with participating in the recent depredations on the Santa Fe route; but I am of opinion that the principal actors in these outrages, and perhaps the only ones, were the Arapahoes and the Kewas. These people reside on the head waters of the Arkansas, between the Santa Fe road and the mountains. They extend their excursions to the head waters of the Platte, and across the mountains to the Rio Colorado of the west. They can muster about five hundred warriors, and are tolerably well supplied with arms and ammunition. From many circumstances within my own knowledge, in relation to the conduct of these people, and from accounts received from some of the Santa Fe traders who were robbed last fall, I feel assured that these tribes of Indians have been the offenders. They are the particular friends and relatives of the Blackfoots, who reside on the head waters of the Missouri, and who are our most bitter enemies. These tribes keep up a constant intercourse with each other. In August, 1825, seven hundred families of the Blackfoots visited the Arapahoes, and remained with or near them until the ensuing summer. The Blackfoots have altogether among their several bands from four to six thousand warriors at least. In the course of the last eighteen months, these people have repeatedly extended their war excursions entirely across our territory west of the Rocky Mountains, and harassed, robbed, and slaughtered our citizens. They can, at any time, conveniently reinforce the Arapahoes with one or two thousand warriors. They are well armed and supplied with ammunition by the Hudson's Bay Company. Major Doherty, United States' Indian agent, has given it as his opinion that the Pawnees, who are included in his agency, have determined to wage war against us. The character of Major D., his means of information, and his knowledge of the Indian character, entitle his opinion to the greatest credit. I know, too, that the Pawnees have been dissatisfied, and have repeatedly threatened us with war. I was once with that nation more than a month at the same time, when they were very much excited. I heard their threats, and plans to execute them. Notwithstanding all these circumstances, I am inclined to believe that they are not yet prepared, and will not, therefore, yet commence hostilities. They want to feel their way, and see what will be the result of the recent depredations committed on the Santa Fe route. Should these occurrences pass unnoticed, and nothing should be done to check them, we may anticipate a war with the Pawnees at some period not far distant. When they come to that determination, they will remove (for they have nothing to bind them to their villages, where they now reside a part of each year) to the head waters of the South Branch of the river Platte, and there operate with the Arapahoes, Kewas, and Blackfoots. These several nations can muster altogether seven thousand warriors, four thousand of whom would be sufficient to take care of their women and children, while the balance of them go to war. They can subsist themselves altogether, convenient to almost any one point, from the twenty-fifth to the thirty-eighth degree of longitude, and from the northern to the south-

ern boundary of that portion of our territory. This whole region of country abounds in buffalo and other game. Any one acquainted with the range of these animals may, if they do not find them at the spot where they wish to use them, procure them not far off. They are so numerous that it appears to me that their numbers would increase annually, even were the consumption of them twice or thrice what it now is.

By the foregoing statement, I have endeavored to give you my opinion of the force, situation, and disposition of the several bands of Indians from whom we may expect the greatest immediate danger, and also their means of subsistence in the country where their operations against us will be carried on. I will now enumerate the bands with whom we have friendly intercourse, but whose friendship, as I have before observed, is, in my opinion, very precarious. The several tribes, as far as we have extended our acquaintance west of the Rocky Mountains, can, I presume, muster from six to eight thousand warriors. They are located in different sections of that country, where our principal fur trade is carried on. On the Missouri, above the mouth of the Platte, we have the Mahaws, who can furnish about four hundred warriors; the Pancaes, two hundred and fifty warriors; the several bands of Sioux, two thousand five hundred warriors; the Shawnees, four hundred; the Arickaras, six hundred; the Mandans and Menatarees, seven hundred; the Crows, eight hundred. On the western boundary of the State of Missouri, the Osages, I suppose, can furnish one thousand warriors; the Ioways, two hundred and fifty; the Kanzas, about four hundred; and the several tribes, or parts of tribes, recently located there by the General Government, perhaps from six hundred to one thousand warriors. I, however, know but little about these last mentioned Indians: their numbers may be greater or less than I have mentioned. Agreeably to this estimate, which I feel assured will not differ in any great degree from the exact number, the whole of the tribes with whom we have intercourse within the limits of the United States, and west of the State of Missouri, can furnish about twenty-two thousand warriors, from three to four thousand of whom are located immediately upon the western border of Missouri, and within four or five days' march thereof; twelve or fifteen hundred of the number, the Pawnees, are now threatening us with war; several hundred others of this number, the late emigrants, were, a short time since, (instigated by the British Government,) slaughtering our citizens upon our Northern frontier, and continued to do so as long as that Government desired it. They had no good cause for their hostility. They lived within the limits of the territory of the United States, from which they could not retreat without the support of the British, and they well knew that when that Government ceased to provide for them, they would again be dependent upon the United States for territory on which they could subsist themselves. Notwithstanding all these circumstances, calculated to induce them to cultivate our friendship, or at least to observe a neutral course, at the first suggestion of the British, they raised the tomahawk against us. What faith can be placed on the friendship of these people? They well know that they may at any time repeat their depredations upon us with impunity; that, should the United States provide the means to punish them, they can sue for peace at any time, with a certainty of obtaining it, and of being restored to their former homes and privileges. Under such circumstances, what have they to fear from repeating their outrages upon us? And how different is the situation of these Indians now from what it was upon our Northern frontier before the late war. Located upon our Western frontier, where in their rear they have a wilderness of fifteen hundred miles in extent, peculiarly adapted to the use of Indians, the greater portion of it literally covered with buffalo and other game, strongly fortified by

nature with the Rocky Mountains, where their retreat can be safely covered, without a strong force to oust them; and behind their natural fortifications, they have their old friends, the British emissaries, preparing materials for rekindling the war fires, should it become necessary. If these Indians should ever be again disposed to raise the tomahawk against us, (and I have not the least doubt of it,) they cannot desire a more eligible position than they now occupy.

The facts generally herein enumerated are not stated as information coming from others, but from my own personal observations. The conclusions which they have led me to, must, I think, appear reasonable to all who will properly consider them. If so, it must forcibly appear that our Western frontier, and our citizens engaged in their lawful and laudable pursuits in that country, want the protection of the General Government; and that not less than five hundred troops, equipped as proposed, will afford that protection. Our citizens immediately interested in the country in question, ought reasonably to expect this protection as a matter of right; and the Government ought, in my opinion, to feel the reasonableness of their claim as a matter of course.

The military command, as proposed, should not be stationary at any one point, but traverse the country from place to place, wherever the good of the service may seem to require. In this way, the officers might acquire a knowledge of the country in which they would have to operate, and also the Indian character, where it could be done leisurely, and without injury to the troops. The latter would be necessary, and the former almost indispensable, because such is the situation of the country, that the safety of the command might, in some degree, depend upon this information; for instance, there are sections of the country for fifty to one hundred miles in extent, in pursuing certain directions, entirely without water, and other portions of it almost equally destitute of subsistence for men or horses. There are also inaccessible mountains, offering appearances of easy access, which would cause great fatigue and delay in attempting to cross them; while others, of much more rugged appearances, can be easily penetrated, when their avenues are well known. These, and numerous other circumstances of equal importance, require that the officer commanding troops in that country should have a knowledge of them before expeditious movements through the country should become indispensable. The troops, too, by moving about as proposed, would be daily acquiring a knowledge of their duty, having so frequently to harness their horses, cross large and difficult rivers, securing camps on different situations, and in a variety of ways become much more efficient in the service. When it might not be necessary for this command to winter elsewhere, they might take up their winter quarters on our Western frontier, where they could be subsisted cheap, and, if necessary, afford protection to our frontier. In compliance with your request in relation to my manner of equipping and moving parties of men through the Indian country in the course of my general excursions to the Rocky Mountains, I will observe, that, as mules are much the best animals for packing heavy burthens, each man has charge of two of them for that purpose, and one horse to ride. The equipage of each horse or mule consists of two halters, one saddle, one saddle blanket, one bear-skin for covering the pack or saddle, and one packstrap for the purpose of binding on the pack, and a bridle for the riding horse. One of the halters should be made light for common use, of beef hide, dressed soft; the other should be made of hide dressed in the same way, or tarred rope, sufficiently strong to hold the horse under any circumstances, and so constructed as to give pain to the jaws when drawn very tight. The rein of each halter should not be less than sixteen feet long. A stake made of tough hard wood, about two

inches in diameter, and two feet long, with an iron socket, pointed at one end to penetrate the earth, and at the other end a band of iron to prevent its splitting, should be provided, to be used when in the prairies, with the halter last described; this stake, when well set in the ground, will hold any horse.

In the organization of a party of—say from sixty to eighty men, four of the most confidential and experienced of the number are selected to aid in the command; the rest are divided in messes of eight or ten. A suitable man is also appointed at the head of each mess, whose duty it is to make known the wants of his mess, receive supplies for them, make distributions, watch over their conduct, enforce order, &c. &c.

The party thus organized, each man receives the horse and mules allotted to him, their equipage, and the packs which his mules are to carry; every article so disposed of is entered in a book kept for that purpose. When the party reaches the Indian country, great order and vigilance in the discharge of their duty are required of every man. A variety of circumstances confines our march very often to the borders of large water-courses, when that is the case, it is found convenient and safe, when the ground will admit, to locate our camps (which are generally laid off in a square) so as to make the river form one line, and include as much ground in it as may be sufficient for the whole number of horses, allowing for each a range of thirty feet in diameter. On the arrival of the party at the camping ground, the position of each mess is pointed out, where their packs, saddles, &c. are taken off, and with them, a breastwork immediately put up, to cover them from a night attack by Indians: the horses are then watered and delivered to the horse guard, who keep them on the best grass outside and near the encampment, where they graze until sunset, when each man brings his horses within the limits of the camp, exchanges the light halter for the other more substantial, sets his stakes, which are placed at the distance of thirty feet from each other, and secures his horses to them. This range of thirty feet, in addition to the grass the horse has collected outside the camp, will be all-sufficient for him during the night. After these regulations, the proceedings of the night are pretty much the same as are practised in military camps. At daylight (when in dangerous parts of the country) two or more men are mounted on horseback, and sent to examine ravines, woods, hills, and other places within striking distance of the camp, where Indians might secrete themselves, before the men are allowed to leave their breastworks to make the necessary morning arrangements before marching. When these spies report favorably, the horses are then taken outside the camp, delivered to the horse guards, and allowed to graze until the party have breakfasted, and are ready for saddling. In the line of march, each mess march together, and take their choice of positions in the line according to their activity in making themselves ready to move, viz. the mess first ready to march moves up in the rear of an officer who marches in front of the party, and takes choice of a position in the line, and so they all proceed until the line is formed; and in that way they march the whole of that day. Spies are sent several miles ahead, to examine the country in the vicinity of the route; and others are kept at the distance of a half a mile or more from the party, as the situation of the ground seems to require, in front, rear, and on the flanks. In making discoveries of Indians, they communicate the same by a signal or otherwise to the commanding officer with the party, who makes his arrangements accordingly. In this way I have marched parties of men the whole way from St. Louis to the vicinity of the Grand Lake, which is situated about one hundred and fifty miles down the waters of the Pacific ocean, in seventy-eight days. In the month of March, 1827, I fitted out a party of sixty men, mounted a piece of artillery (a four pounder)



on a carriage which was drawn by two mules; the party marched to or near the Grand Salt Lake beyond the Rocky Mountains, remained there one month, stopped on the way back fifteen days, and returned to Lexington, in the western part of Missouri, in September, where the party was met with every thing necessary for another outfit, and did return (using the same horses and mules) to the mountains by the last of November, in the same year.

With great respect, I have the honor to be your obedient servant,

W. H. ASHLEY.

Gen. A. MACOMB, *Commander-in-chief of the Army of the U. States, Washington City.*

#### CULTURE OF SILK.

Mr. SPENCER, of New York, from the Committee on Agriculture, to which was referred the letter of Peter S. Du Ponceau, Esq., presenting to the House a flag of American silk and manufacture, made the following report:

The Committee on Agriculture, to which was referred the letter of Peter S. Du Ponceau to the Speaker of the House, announcing his presentation to the House of a silken flag bearing the colors of the United States, made of American silk, reeled from cocoons, and prepared and woven by John D'Homergue, silk manufacturer, the entire process in the manufacture of the same having been performed in the city of Philadelphia, report:

That they consider this specimen of American industry applied, for the first time, to the production of a fabric in such general use in the United States, in the purchase of which, in foreign countries, several millions of dollars are annually drawn from this country, as highly auspicious to the agriculture and arts of the United States; and that Mr. Du Ponceau, for his patriotic exertions in promoting the culture of silk, and in his efforts to excite the attention of the people of the United States to that important branch of industry, deserves the commendation of his country. The committee have received a communication from Mr. Du Ponceau, detailing various important facts and remarks in reference to the bill entitled "An act for promoting the growth and manufacture of silk," which they have appended to this report for the information of the House; and the committee report a resolution, and recommend its adoption by the House.

*Resolved*, That the flag bearing the colors of the United States, presented to this House by Peter S. Du Ponceau, of Philadelphia, made of American silk, and prepared and woven by John D'Homergue, silk manufacturer, in the city of Philadelphia, be accepted by this House, and that it be displayed, under the direction of the Speaker, in some conspicuous part of the hall of sittings of this House.

PHILADELPHIA, December 7, 1830.

SIR: You will receive with this letter a silken flag, bearing the colors of the United States. This flag is made entirely of American silk, reeled from the cocoons, prepared and woven by Mr. J. D'Homergue, silk manufacturer. The coloring has been done by the best artist he could procure in the city of Philadelphia, he himself not professing to be a dyer.

The staff of this flag, with the eagle, measures about fifteen feet; the flag itself is twelve feet and a half long, and six feet wide. It is woven all in one piece, without a seam.

I beg, sir, you will be so good as to present this flag most respectfully, in my name, to the honorable House over which you preside, as a sample of American industry, thus applied for the first time to the most valuable of American productions, and as a result of the efforts they

have made during the last five years for the promotion of the important branch of agriculture to which we owe the rich material of which this flag is composed.

I have the honor to be, with the highest respect, sir, your most obedient, and most humble servant,

PETER S. DU PONCEAU.

HON. ANDREW STEVENSON,

*Speaker of the House of Representatives.*

PHILADELPHIA, December 13, 1830.

SIR: The bill for promoting the growth and manufacture of silk, which was reported by you, in the name of the Committee on Agriculture, to the House of Representatives of the United States, at their last session, having been unavoidably postponed, in consequence of the pressure of other business, I have availed myself of the opportunity of the recess to cause experiments to be made, and collect as many facts as has been in my power, in order to throw as much additional light as possible on a subject which may be considered, in a great degree, as new in this country, and on which, at least, very little practical experience has been yet obtained.

I thought it my duty so to do, in order to justify the confidence with which the committee were pleased to honor me, by giving implicit credit to the statement of facts which I laid before them, and by adopting and recommending to Congress the plan which, at their request, I submitted, as the best calculated to promote the important object which they had in view. In many respects I rejoiced that that opportunity was given me by the postponement of the bill. I have proceeded at my own risk, as if the bill had been actually passed, and one year has been gained of the three years which its enactments required.

I began with causing to be printed, in a pamphlet form, two hundred copies (one hundred in the English, and as many in the French language) of the report, in part, of the Committee on Agriculture of the 12th of March last, with my letter to you annexed, which I transmitted to my correspondents in different parts of Europe, in order to elicit opinions and obtain every possible information. They made their way as far as Vienna, in Austria, whence I have lately received a valuable treatise on the culture and manufacture of silk. What effects they produced elsewhere, will be mentioned in the course of this letter.

I then went with M. D'Homergue to the State of Connecticut, where the culture of silk has been pursued for the last seventy years. We remained five days in the town of Mansfield, where the greatest quantity of cocoons are raised, which they make into sewing silk. There we were much surprised to find the country poor in the midst of riches. It abounds in mulberry trees of the best species, which might feed, according to M. D'Homergue, a much greater quantity of silkworms than are raised there. The soil is excellent for the production of that tree, and silkworms prosper there, though they are raised without any extraordinary degree of care. The cocoons are very fine, and their silk excellent; yet, the people of that district are far from being rich, and money is very scarce among them. The chief advantage that they appear to derive from their sewing silk is, that it serves them as a kind of circulating medium—skins of silk of a size regulated by their acts of Assembly supplying the place of coin and bank notes, through a pretty large extent of country. If they knew how to prepare their silk for exportation, or for the manufacture of those light stuffs that are so much in use through the United States, their condition, I think, would be much improved by more profitable sources of gain, and a greater influx of money. I found in that State a disposition to extend the culture of silk; and large orders have even been sent from thence to this city for the purchase of mulberry plants.

On my return home, I caused ten reels to be made on an improved plan of M. D'Homergue's, much simplified from that of Piedmont, and which were found to work extremely well. I also caused a convenient shed to be erected for the filature, under which the reels were placed, with their furnaces and other necessary apparatus.

On my leaving Connecticut, I had left orders to an agent to purchase a large quantity of cocoons. From some misunderstanding, it happened that that order was not executed in time, so that I obtained from thence a much less quantity than I expected.

By means of advertisements in the newspapers, inserted, however, too late in the season, and not extensively enough, I obtained cocoons, in various quantities, from the States of New York, New Jersey, Pennsylvania, Delaware, Virginia, and North Carolina; a few were sent to me even from the States of Mississippi and Louisiana. From the last of these States, and from South Carolina, I would have received some considerable quantities, if the rivers had been navigable in the interior. On the whole, I could only collect, during the last season, about four hundred and twenty pounds of various qualities; but I have no doubt, that, next year, by taking proper measures in due time, a sufficient quantity may be obtained for any reasonable purpose, and that quantity will be increasing every year. Although the reeling season is over, I am still receiving some from different parts of the Union. The last I have purchased came from the vicinity of Richmond, in Virginia, and I expect every day six bushels from South Carolina. I found no difficulty in procuring women to work at my experimental filature; they offered themselves in abundance, and those whom I employed were well pleased with the business: they like it much better than working in the cotton factories, because the labor is lighter, and they have the advantage of the open air; for silk cannot be reeled to advantage in a close room. That work must be done under a shed, into which the air has full and free access on all sides, except where the sun shines with too much power; and that is provided against by curtains or sliders.

I employed, at first, six, and gradually, afterwards, so many as twenty women at the reels, who have acquired more or less skill in the art of winding silk from the cocoons, and, in general, did very well under direction. M. D'Homergue praises very highly the adroitness and intelligence of the females of this country; and has no doubt but that they will, in time, make excellent reelers.

With the aid of these women, M. D'Homergue made, in the course of the season, about fifty pounds of fine raw silk. When we consider the small quantity of cocoons out of which this was made, that a large portion of them were bad ones, and the considerable waste that must have resulted from the want of skill of women just initiated in the art, it will be seen that the superiority ascribed to American silk is not imaginary, but has a real and solid foundation.

While these operations were going on, every decent person who wished it, was admitted to see the filature, and the manner in which the women were proceeding in their work. Nothing was done in secret; it was, on the contrary, the wish of M. D'Homergue, and my own, that every thing should be open to the public eye. Nor were our women bound by any kind of engagement, to make a secret of the knowledge they acquired, or not to hire themselves to others if they thought proper. They were left perfectly free, and are so still, now that the season is at an end, and that they are no longer in our employ. At the same time, sir, it is but fair to say, that they have not yet reached that proficiency in the art which would enable them to profit by their labor, without being under the direction of a person skilled in the business. The time will come when they will be able to set up for themselves small domestic filatures; larger ones must always be carried on under the inspection of men; otherwise, they will

ruin those who undertake them. It is in large filatures that women are to be instructed, so as to spread the art in the required degree of perfection through the land.

It had been my wish to have made at least one hundred and fifty pounds of raw silk, in order to make a fair trial of the respective markets of England, France, and Mexico; but I soon discovered that it would be impossible in the first season, and therefore I determined to put the silk to another test. It was evident that, if it could be manufactured here into fine stuffs, to an equal, or nearly equal, degree of perfection with those imported from Europe, it might be also manufactured elsewhere, and therefore there could be no defect in the mode of reeling it. I therefore engaged M. D'Homergue to weave several tissues out of part of the silk that he had reeled, and the result was perfectly satisfactory. As a sample of that result, I have had the honor of presenting the flag of the United States to the honorable the House of Representatives; as it will be no doubt accessible to the public eye, it does not belong to me to pass judgment upon its workmanship. Part of the machinery with which it was woven was made on a model imported by me from Europe for the purpose.

Thus, sir, while I only meant to show to the nation the importance of the art of reeling, and the ability of M. D'Homergue in that branch of the silk business, circumstances, which I had not foreseen, have led me to demonstrate also the possibility, nay, the facility, of introducing among us the manufacture of those fine stuffs for which we pay so large a tribute annually to Europe; so that our citizens will have the choice of exporting or manufacturing their raw silk, as experience shall show to them the advantage of either.

Nothing proves better the excellence of American silk than that the various webs which M. D'Homergue has woven out of it, have not undergone the operation which is called throwing or throwsting, and yet that their texture possesses the necessary evenness and strength. To understand this fully, some explanation is necessary; and I beg to be excused for briefly stating the different processes which silk undergoes in Europe, from the cocoon to the web.

1. The first and most essential operation is that of reeling. It is performed by women, either by themselves, in their domestic filatures, or in large filatures, under the inspection of men capable of directing them. The men never reel, but merely superintend the work of the women, to make them produce, in their highest perfection, the various qualities of raw silk required for the different manufactures.

2. From the filature the silk goes to the silk throwster, to be thrown, as it is called. The throwster, partly by the aid of women, and partly of men or boys, winds, cleans, doubles, or unites more than two threads together into one. These operations are performed by means of a complicated machinery, called a throwsting mill, to which are added, as parts of its necessary apparatus, winding, cleaning, and doubling or trammimg engines. Silk, thus prepared, is called throwing silk. If the silk has been badly reeled, the greatest part of it goes to waste in the operation of throwing; for the twisting machine, operating with the same degree of force through the whole length of the threads, if they are unequal (which is the common defect of silk unskillfully reeled) the same force which only twists the strong parts, breaks the weak ones, and thus the silk is wasted, and great loss follows. By these operations the silk acquires consistency and strength, and becomes fit for weaving after being dyed.

3. From the throwster the silk goes to the dyer, to receive the impression of colors. The dyer begins with boiling the thrown silk, in order to free it from a quantity of gum which still adheres to it; that done, he plunges it into his vats or kettles, to give it coloring. From the dyer it is sent to the weaver, who manufactures it into different stuffs.

No silk in Europe, as I am informed, is boiled or dyed, without being first thrown; otherwise, it is said, it would become furzy, and unfit for weaving.

The silk manufactured by M. D'Homergue has been boiled, dyed, and woven, without being thrown; and it does not appear at all deficient in evenness or regularity of the threads. I do not mean to say, however, that American silk will not be improved by passing through the hands of the throwster; still, it is a remarkable quality that it possesses, that it can, without it, produce such stuffs as M. D'Homergue has exhibited. It proceeds from the strength and nerve of the material, which are the great characteristics of the silk of this country.

For all the operations above mentioned, except that of reeling, there is no danger of competent workmen being at any time wanting in the United States. A number of silk manufacturers, such as throwsters, dyers, weavers, and even machine makers, have arrived in our seaports, in the course of the present year, from various parts of Europe, but chiefly from England, expecting to find here encouragement for their business. Several have inquired of me where they could get employment; and finding none for want of raw silk, most of them have betaken themselves to the cotton manufactories. There is no doubt that many more will come in consequence of the general excitement which the culture of silk has produced in this country, and also because it is well understood that the silk manufactories are in a declining state in England, as well as in France, whereby many workmen are thrown out of employ. This was asserted to me, as to the former country, by the English manufacturers who arrived here in the course of the last season.

As to France, I need only refer you, sir, to the memorial from the merchants of Lyons to their Government, which I had the honor of communicating to the committee during the last session of Congress, where the fact is clearly and distinctly stated; and you will recollect that this decline is chiefly attributed to a great deal of silk badly reeled being brought to the market. Another very remarkable fact will corroborate this assertion. I am informed by my French correspondents, that, as soon as the report of the committee of the 12th March last, with my letter to you, reached Nismes, (a considerable silk manufacturing town in the South of France, in which there are several extensive filatures,) the Chamber of Commerce of this city called a meeting of the merchants of the department of Gard, in which it is situated, to consider the expediency of petitioning the French Government to adopt for France the plan which that letter suggests, to wit, the establishment of a school for the instruction of young men, to enable them to become directors of filatures. The meeting was appointed for the first of August last. The revolution which took place at Paris at the latter end of July, and which was attended, at Nismes, with considerable disturbance and bloodshed, by compelling the peaceable inhabitants to fly the city, prevented that assembly from taking place; but I am informed that it is not lost sight of, and that the plan will be resumed as soon as possible. In the mean time, my letters also inform me that an eminent lawyer has been employed to draught the intended petition, and the cities of Lyons and Avignon have been invited to join in the measure.

Such is the importance that is attached in France to the art of reeling silk; and I ought to mention here, that, notwithstanding the great influx into this country of silk manufacturers, of every description, not one reeler has appeared, either male or female; and this comes in support of what I have stated in my former letter respecting the difficulty of obtaining such.

Eighteen months have elapsed since M. D'Homergue arrived in this country, at the instance of a society who well understood the importance of the art of reeling. Almost immediately on his arrival, he published his essays, in

which he threw all possible light upon the subject: those essays have circulated in America and Europe. The Legislature of the Union have thought them worthy of their particular attention; and yet no reeler, except M. D'Homergue, has appeared in the United States, while silk manufacturers, of other descriptions, have come here in numbers from various parts of Europe.

Thus, sir, with the exception of reeling, the United States have all the arts at hand that are necessary for carrying on silk manufactures, for which they only want the raw material properly prepared. I should add that the men who profess those various arts are all in search of labor, and that there is danger of their taking to manufacturing foreign silks, to the great detriment of that of our country. The republic of Mexico offers a striking example of what may happen here. In that country, they manufacture a very great quantity of sewing silk, besides shawls, and some other articles. They have imported foreign manufacturers, who taught them their arts; but they neglected the planting of mulberry trees, and raising silk worms, although their soil and climate are admirably calculated for these purposes. The silk they manufacture is imported from abroad, chiefly from China, and a great deal of it passes through this country on its way to them. This sufficiently explains the large importations of raw silk which annually take place in the United States. It appears from the treasury reports, that, in the year which ended on the 30th September, 1828, raw silk was imported into this country to the amount of \$608,709, which amount, converted into silk stuffs, would produce several millions, but would, at the same time, destroy the hopes of our agriculturists. By manufacturing foreign silks, the Mexicans encourage their manufactures and commerce at the expense of agriculture. I am told, however, that they are beginning to plant mulberry trees in the neighborhood of Acapulco, on the Pacific; but it is probable they will not succeed for want of good reelers, and because bad habits, when once fixed, are with difficulty laid aside. I think there is danger of the same thing taking place in this country. Some coarse articles have already been made in New York, out of foreign silks, and offered for sale there and in this city.

The English, it is true, have enriched themselves by the manufacture of silk, although their country does not produce the raw material, which they are obliged to import from abroad; but there is no doubt that they would be much richer if they raised it at home. Of this they are very sensible, and it is evident from the efforts they made to introduce the culture of silk into the United States while British colonies. They raise a great deal of it in their possessions in Bengal, which is said to be the finest in the world, but it comes to Europe badly reeled and otherwise ill prepared, and therefore is considered inferior to all others. (See the Manual published under the authority of the House of Representatives, in 1828, p. 172.) In addition to this, and in support of the importance of good reeling, I beg leave to insert here the statement of an English silk broker, communicated in a letter from the respectable house of Rathbone, Brothers, & Co. of Liverpool, to a gentleman of South Carolina, who published it in the *Sumpter Gazette* of the first of May last: "Although," says the writer, "our importations from the East Indies are great, and this trade of vital importance to our successful competition with the continent, it is to be regretted that neither the East India Company nor the private merchants have hitherto employed any competent persons to superintend the reeling of the silk; if that was done, I have not the slightest doubt but that silks of the Eastern production would render us altogether independent of France or Italy; for it is an established fact that silk of the best quality can be produced in the East Indies at a lower rate than in Europe."

It is also an established fact that America produces silk

of the best quality; and experiments have shown that M. D'Homergue possesses the necessary qualifications for directing a filature, and for giving instruction in the art of reeling. In addition to the evidence which results from these experiments, I beg leave to state that, in the course of last summer, some small samples of Philadelphia raw silk, reeled by M. D'Homergue, were sent to Lyons and Nismes, in both of which places it was much admired. At Lyons, the Chamber of Commerce caused the samples to be submitted to the proper tests by a sworn assayer, who pronounced it well reeled; and in the account of these proceedings, which was inserted in a Lyons newspaper called the *Pre-curseur*, it was said to be worth there twenty-six francs (five dollars) a pound. At Nismes it was estimated at thirty francs. I have no doubt that it will produce at least those prices in our seaports, to which it is understood that orders will be sent from France as soon as it is known that it may be obtained in sufficient quantities. In England, the prices of silk follow pretty nearly those of France. In Mexico, our raw silks of the second and third quality are most in demand, and will produce good prices. It is a remarkable fact that they lay heavy duties there on the importation of raw silk, which they manufacture and do not produce. With this system, they are not likely soon to rival us, if we should adopt one capable of bringing our native resources into full activity.

The only system, in my opinion, that will produce that effect, is the introduction of a good method of reeling silk, and its equal dissemination through the United States. This done, every thing else will follow. The agriculturist will raise cocoons, because he will find purchasers; and the raw silk will be purchased by the foreign agents, or employed by the manufacturer at home. I have received several letters from North and South Carolina, informing me that a great many cocoons are raised there, but that, for want of a market, they are devoured by rats and insects. A lady writes to me that she has lost this year, in that way, near one hundred bushels. A general desire is expressed, from one end of the United States to the other, to see this rich production turned to a profitable account. I have received numerous letters to that effect from almost every State in the Union. The excitement in favor of the silk culture appears to me to be general, and numbers are preparing to apply themselves to it.

It remains now with Congress to take such measures as they shall think most proper for the attainment of that object. In making experiments and collecting facts, in order to throw some more light upon the subject, I have done my duty as a citizen, anxious for the welfare of his country. The committee will please to recollect that I have not obtruded upon them my opinions or my advice; and that, in addressing them at the last session, I only yielded to the most flattering invitation. At present, it is a duty that I owe to them, as well as to myself, to support, by facts, the theory that I have advanced, and which they have sanctioned by their approbation.

I have only to add, that M. D'Homergue persists in the offer he made of his services, and I in that of my gratuitous assistance. Should the bill proposed by the committee be brought again to the consideration of Congress, it is to be observed that three years are no longer required, and that M. D'Homergue will be ready to begin the instruction of the sixty young men on the first of July next. This will require an alteration in the terms of payment of the forty thousand dollars. He suggests four equal half-yearly instalments, the first to be immediately after the passing of the act.

It is with pleasure that I mention that M. D'Homergue, having inspected several of our manufacturing establishments, has been astonished at the proficiency that this country has made in mechanics and the mechanical arts, which will, in a great degree, supersede the necessity of importing machinery from abroad, when the same effect

can be obtained here from the ingenuity of our workmen.

I have the honor to be, with the highest consideration and respect, sir, your most obedient and very humble servant,

PETER S. DUPONCEAU.

HON. AMBROSE SPENCER,

*Chairman of the Committee on Agriculture of the House of Representatives U. S.*

#### ASSAYS OF FOREIGN COINS.

MINT OF THE UNITED STATES,

*Philadelphia, January 31, 1831.*

SIR: Conformably to general instructions from the Treasury Department, assays have been made of the following foreign coins, the result of which is now respectfully submitted.

#### GOLD COINS.

From the assayer's report, it appears that the gold coins of Great Britain and Portugal contain 22 parts of fine gold in 24 parts; those of France 21 19-32 parts of fine gold in 24 parts; and those of Spain 20 63-64 parts fine in 24 parts.

The value, per pennyweight, of the gold coins of Great Britain and Portugal, deduced from the above assay, is the same as that of the gold coins of the United States, viz. 88 8-9 cents; that of the gold coins of France is 87 1-4 cents; and that of the gold coins of Spain 84 78-100 cents per pennyweight.

These results are very nearly conformable to those of our previous assays of the above coins, except in regard to gold coins of Spain, which, in this instance, give a value slightly above the average of those usually obtained. It may be confidently inferred that no reduction in fineness has been made in either of the coins mentioned.

In addition to the above, assays have been made of the gold coins of Mexico and Colombia, issued in 1829, and of Central America, issued in 1827; being the latest dates procured. The result indicates an adherence, on the part of those Governments, to the gold standard of Spain; the greatest deviation from that standard not being greater than Spanish gold coins frequently exhibit. The gold coins of those new States may be estimated at 84 25-100 cents per pennyweight, which corresponds with the average value thereof, ascertained by the assays of 1826.

#### SILVER COINS.

Of Spanish milled dollars, no latter dates have been procured than those heretofore assayed and reported on, viz. of the year 1824. The fineness thereof may be stated at 10 oz. 15 dwts. 12 grains of fine silver in 12 ounces, conformably to previous reports. The value per ounce corresponding thereto is 116 1-10 cents. Standard silver of the United States contains 10 oz. 14 dwts. 4 5-13 grains of fine silver in 12 ounces, the value corresponding to which is 115 38-100 cents per ounce.

Specimens of the Mexican and Peruvian dollar of 1830, the Central American of 1829, and that of La Plata of 1827 and 1828, have also been submitted to examination.

The three first mentioned are found to be of the full Spanish standard; they even incline to a fineness slightly superior to the ordinary Spanish dollar, but not such as to indicate any authorized appreciation in this respect. Being of recent emission, their weight exceeds that of the dollar of Spain now in circulation. The intrinsic value of these coins may be stated at 116 1-10 cents per ounce. By tale, they may be estimated to average 100 cents 4 1/2 mills.

The specimens of the dollar of La Plata, examined in 1826, were found equal in fineness to the Mexican, though of less value by tale, by reason of their inferiority thereto in weight. On an average, they were not found to be worth more than 100 cents each.

The latest dates then examined were of 1813 and 1815.

The specimens of this coin issued in 1827 and 1828, now assayed, present results materially different from the above, and indicate a very sensible deterioration in the standard thereof. These specimens vary from 10 oz. 1 dwt. 12 grains fine silver, to 10 oz. 7 dwts. 6 grains in 12 ounces. The former is equivalent to 108½ cents per ounce, and the latter to 111 6-10 cents per ounce. The value of the former, according to their ordinary weight, will be, by tale, about 93 6-10 cents, and that of the latter 96½ cents. Nothing can be usefully affirmed of the average value of coins liable to variations of this extent.

Late deposits of large amounts in Spanish dollars, exhibit a result not observed at the mint before the latter part of the last year. They have heretofore been stated as producing on an average 100 cents 3 mills, conformably to the ascertained value of large quantities received from time to time for coinage. Recent deposits have produced less than one mill above their nominal value. This is to be attributed to the diminished average weight of those coins, arising in part from the cessation of new issues, and probably still more to the fact, that a large proportion of the Spanish dollars now remaining in the United States may be the residue of parcels from which the most perfect have been selected for the purposes of commerce and the arts.

Very respectfully, your obedient servant,  
SAMUEL MOORE.

Hon. S. D. INGHAM,  
*Secretary of the Treasury.*

#### WORKERS IN IRON.

PHILADELPHIA, *January 14, 1831.*

I have the honor to transmit the accompanying memorial, and, on behalf of the petitioners, to request you will present the same to the House of Representatives, over which you preside.

The memorial is signed by three hundred and fifty-eight practical workers in iron, and will be found, by the members of the House from our districts, and others acquainted with the names, to contain the signatures of not only the principal, but all the intelligent master-workmen and journeymen in the smithing business, of the city and county of Philadelphia.

Several of the memorialists have been informed by iron masters, and owners of forges and furnaces, that these gentlemen themselves are at length becoming satisfied that some modification of the present ruinous tariff on iron is necessary; experience having sorely taught them that the existing exorbitant duties on the importation of the raw material, so far from increasing, actually diminishes the demand for American iron.

With the highest respect and consideration, I am, sir, your most obedient servant,

JOHN SARCHET.

To the Hon. ANDREW STEVENSON,  
*Speaker of the House of Representatives, Washington.*

#### MEMORIAL.

*To the Senate and House of Representatives of the United States, in Congress assembled.*

The memorial of the subscribers, citizens of the city and county of Philadelphia, mechanics, employed in various branches of the manufacture of iron, namely, as steam engine makers, anchor and chain smiths, shipsmiths, machinists, founders, hardware manufacturers, edge-tool makers, locksmiths, coach and wagon smiths, farriers, whitesmiths, and blacksmiths, respectfully represents:

That, at the last session of the present Congress, a number of your memorialists presented a petition to both

Houses, which, in the Senate, was referred to the Committee on Manufactures, and, in the House of Representatives, to the Committee of the Whole House; that, in the Senate, the Committee on Manufactures made a report thereon, printed by order of that body, which contains statements, supposed to have been made by your memorialists in the petition in question, and conclusions deduced therefrom, not conceived to be correct by your memorialists; they therefore feel satisfied that the facts referred to by the committee of the Senate have not been fully comprehended, and that the committee has thus been led into material errors, which, when clearly and distinctly pointed out, your memorialists believe, will become evident to both Houses. Your memorialists accordingly respectfully ask permission once more to exhibit to Congress, in greater detail, and with all the perspicuity they can give them, the practical facts on which they found their claim for legislative relief, accompanied by such remarks on the report of the Committee on Manufactures in the Senate as are absolutely necessary to prevent the former statements of your memorialists from being misunderstood.

First. The report of the Committee on Manufactures in the Senate, after quoting some of the statements of your memorialists, remarks: "That, as this petition is printed for the use of the Senate, and placed among our documents for future reference, if necessary, it is proper that explanations should be given, to prevent erroneous impressions, which it is calculated to make." Your memorialists believe the erroneous impressions here alluded to, to be the prices given by them, in their petition, of the cost of iron; but the committee, and not your memorialists, on this point, have fallen into error, by assuming, as the committee have done, the returns made to the Treasury Department as the basis of their calculations, when, as is well known, no distinction whatever is made in the Treasury returns between the prices of refined and common iron; whereas, in their petition, your memorialists expressly declared, that, on refined iron, manufactured by rolling, which then actually cost ten pounds sterling per ton, or, at the par value of exchange, forty-four dollars and forty-four cents, and has since fallen to nine pounds sterling per ton, the duty was eighty per cent.; and that, on common iron, which then cost six pounds sterling, or twenty-six dollars and sixty-six cents per ton, the duty was one hundred and forty per cent.; and, so far from thereby conveying "erroneous impressions," your memorialists have since ascertained that common English iron, at cargo price, was then selling at five pounds five shillings sterling, or twenty-three dollars and thirty-three cents per ton, thus making the duty actually one hundred and fifty-nine per cent., or nineteen per cent. more than your memorialists alleged in their petition. Smaller sizes of iron, such as half inch, either square or round, and under, are subject to a duty of seventy-eight dollars and forty cents per ton, the price of half inch being six pounds five shillings sterling, or twenty-seven dollars and seventy-seven cents on that size, equivalent to two hundred and eighty-two and three-quarters per cent., which, nevertheless, continues to be imported! On the smaller sizes of iron, in consequence of a difference in cost, although subject to the same specific duty, the duty actually paid is somewhat less per cent. than that on half inch iron.

As the committee of the Senate, in their report, have pronounced common English iron to be "bad," your memorialists will be excused for here inserting a set of experiments on the strength of the various malleable metals, given in the works of different French and English scientific writers on mechanics, incontestibly establishing the relative cohesive properties of these metals, and fully verified by the practical experience of several of your memorialists. These experiments are on the suspension of metallic bars, one-quarter of an inch square and six inches



long, and show their respective cohesive strength, expressed in the number of pounds which each bar of metal would hold, namely:

Cast steel,	- - - - -	8,391 pounds.
Swedish iron, (proper to make steel of,)	- - - - -	4,504 "
Other descriptions of iron	- - - - -	3,492 "
Wrought copper,	- - - - -	2,112 "
Cast copper,	- - - - -	1,192 "
Yellow brass,	- - - - -	1,123 "
Cast tin,	- - - - -	296 "
Cast lead,	- - - - -	114 "

By the foregoing table, it will be seen that lead, the toughest of all the metals, possesses least strength of cohesion; whilst, on the other hand, cast steel, the most brittle of the malleable metals, possesses in the highest degree strength of cohesion. Accordingly, in the application of the malleable metals to the various purposes of business, their cohesive strength, as well as their toughness, have their respective values; and in the same metal—that, for example, which your memorialists exclusively work up, namely, iron—these opposite properties are found advantageous, and are respectively turned to the best practical account. Hence, from its superior toughness, Spanish iron, by all competent judges, would be preferred for rivets, harpoons, and other articles, in which toughness is principally required; and next in point of excellence, for the same uses, the best American iron would be selected. For implements of husbandry, crow-bars, cut nails, and other articles requiring stiffness, and resistance against friction, Swedish iron is the best adapted for these purposes. For sheet and rod iron, on account of its superior ductility, Russian iron is generally preferred. English iron is preferred for various purposes, on account of the decided superiority it possesses in various qualities; in chains and anchors, from its superior strength of cohesion, its great excellence in welding; or uniting, and surpassing every other known iron, both in this latter quality, and in its power of resisting rust or corrosion when exposed to the action of dampness or fresh or salt water, for more than a double period of time; in rails for railways, spikes, and bolts, on account of the superior manner in which it is prepared in all the various forms required, as well as from its acknowledged superiority in durability; and for wheel-tires, for the same properties, as well as from the greater evenness with which it is always drawn. From the various qualities above enumerated, American, Swedish, and Russian iron, all manufactured by hammering, and English and some American iron manufactured by rolling, of the common sizes, are all sold in this market at nearly the same price, to wit, at about five dollars per cwt.; Spanish iron being not much used or known here.

Secondly. Your memorialists did not mean to state, in their former petition, that the quality of the iron made in Great Britain, which sells at from sixty to sixty-two dollars and twenty cents per ton, is dependent on the hammering process, as inferred by the committee of the Senate. The quality of this, as well as of every other description of iron, arises from the purity or fineness it receives from the furnace or forge, in the application of heat, and not from the process by which it is drawn. The hammer is used in England in preparing large and irregular pieces of iron, in which the rolling process cannot be resorted to; and hence this difference of price.

Thirdly. The report of the committee of the Senate alleges that your petitioners complained of the hardship of purchasing small sizes of iron at the high price, arising from the duty of three and a half cents per pound on it; which, the committee remark, "if incurred to any considerable extent, must be altogether voluntary, as the iron may be imported in bars of a large size, and converted into those of a lesser size in this country at a very small

expense;" and refer to the rolling mills "which have been in operation for several years in the county of Morris, in the State of New Jersey," and elsewhere; where, the committee assert, "common bar iron may be converted into bars and bolts, of the smaller size, at a small expense." Now, your memorialists must be permitted to say, in replying to this statement of the committee of the Senate, that the hardship they complained of, arising from the duty in question, is not, on their part, "voluntarily" incurred, and for the reasons which they proceed to give.

First—Iron of the small sizes, paying three and a half cents per pound duty, is still imported and purchased by many of your memorialists, although these small sizes, manufactured in this country, receive a bounty or "protection" equivalent to the duty. This, your memorialists clearly conceive, proves that the statement of the committee of the Senate is not borne out, and is certainly at variance with all their experience upon a point in which they cannot be mistaken; for, notwithstanding "the many mills erected for rolling iron of these small sizes," spoken of by the committee as being done "at a small expense," your memorialists still find their advantage in purchasing the imported article of the same description, subject to the heavy duty in question, as well as the other charges of importation. Secondly—Your memorialists will add, that some of them have actually paid the American manufacturers twenty-five dollars per ton for rolling iron of one inch and under into five-eighths of an inch; and from the same sizes into half an inch, thirty dollars per ton; whilst the former sizes, of five-eighths of an inch, only cost the manufacturer of hardware in Great Britain twenty-three dollars thirty-three cents per ton, and the latter sizes, of half an inch, only twenty-seven dollars seventy-seven cents. Hence it is, that, from our own present absurd duties on all sizes of rolled iron above half an inch, the British manufacturer is enabled to import into the United States, in the form of hardware, a ton of iron, at the rate of twenty-eight dollars eighty-three cents, including duty; and that, on all sizes of rolled iron of half an inch, he is also enabled to import into the United States, in the same form, a ton of iron, at the rate of thirty-five dollars thirty-nine cents, including duty; the discriminating duties, in favor of the British manufacturer, being, on all sizes of iron over half an inch, thirty-one dollars fifty cents, and, on half inch, seventy dollars seventy-seven and a half cents: the duties on hardware manufactured of the smaller sizes of iron being only one-eleventh of what they are on iron as a raw material; and on hardware made of larger sizes about one-sixth: thus excluding such of your memorialists as are engaged in the manufacture of hardware, from any thing like a fair competition with the same articles brought by the British importer into our own market! Some of your memorialists, besides, have been informed by owners of the largest and best rolling mills "in this country," that, at the present prices, they are by no means desirous to convert common bar iron into bars and bolts of the smallest sizes, notwithstanding the declaration of the committee of the Senate, that your memorialists' preference of the imported iron of this description "must be altogether voluntary."

Fourthly. The Committee on Manufactures, in their report to the Senate, refer to a part of the former petition of your memorialists, which stated that wheel-tire with holes punched in it, sheet iron cut and punched for stove-pipes, boiler plates of a size and punch for steam engine boilers, and hoop iron punched, were imported at the ad valorem duty thereon of twenty-five per cent., as "all cases of evasions of specific duties, and frauds upon the revenue;" and style this part of your memorialists' petition "an exhibition of the mysteries of trade, which must be new to the Senate;" "as an ingenious plan to evade the duties on bar iron, and, when carried into execution, a gross and palpable fraud upon the revenue." And the

committee further allege, that the importation of partially manufactured wheel-tire, with holes punched in it, is "a device of the importers to evade the duties upon bar iron," which, they add, "cannot impose upon the custom-house officers, and, if it should, will no doubt be corrected as soon as made known to the Treasury Department." In reply to these allegations of the committee of the Senate, your memorialists do not feel themselves at liberty to indulge in the expression of feelings which an acute sense of justice might warrant; and the unfeigned respect they entertain for both Houses of Congress will prevent any animadversions, notwithstanding the imputations which the committee have thought proper to cast upon such of your memorialists as have been accustomed to import iron manufactured in whole or in part, in conformity, as they believe, with a just and strict interpretation of the revenue laws. Without any infraction, however, of their respect for both Houses of Congress, they may be permitted, in answer to these allegations of the Committee on Manufactures in the Senate, to observe, that the sections of the various acts now in force, imposing the duties in question, point out these distinctions, and not your memorialists; and they believe have always been so understood and applied, as only to subject iron manufactured in whole and in part, not otherwise specified, to the duty of twenty-five per cent. ad valorem thereon. It will be seen that the act of May 19, 1828, limits the additional ten per cent. ad valorem duty to the articles made of iron therein enumerated, and that all other manufactures of iron, not otherwise specified, remain subject to the duty of twenty-five per cent. ad valorem imposed by the act of May 22, 1824. Your memorialists moreover assert, without fear of contradiction, that the interpretation uniformly given to these sections of the acts in question at the custom-house, and, it is believed, with the entire sanction of the Treasury Department, has been always to allow the importation of iron manufactured in whole and in part, when not among the articles specified in the act of May 19, 1828, subject only to the ad valorem duty of twenty-five per cent. imposed by the act of May 22, 1824; that this construction of these acts imposing the duty in question is entirely correct, must be obvious to both Houses of Congress, if they will refer to an act passed during the last session, regulating the importation of railroad iron, which expressly confines the application of its provisions to iron imported for railroads, thus clearly showing that Congress deemed it necessary to enact a law for the express purpose of preventing iron so imported from being applied to any other purpose except that of rails, which might have been done previous to the enactment of the said law. It is, besides, well known to all of our fellow-citizens engaged in, or practically acquainted with, the ironmongery trade, that, under the provisions of the act of May 22, 1824, imposing the ad valorem duty of twenty-five per cent. on manufactures of iron not otherwise specified, and not subsequently enumerated and repealed by any of the provisions of the act of May 19, 1828, it has been the constant and uninterrupted practice, at this and other ports in the United States, to import iron, manufactured in whole or in part, under this ad valorem duty of twenty-five per cent.

Fifthly. The first section of the act of May 19, 1828, provides that bar or bolt iron, when manufactured by rolling, and above half an inch diameter, shall, on its importation, be subject to a duty of thirty-seven dollars per ton; and iron of the same description, but of smaller sizes, subject to a duty of seventy-eight dollars forty cents per ton. What led the framers of the law, in this section of the act, to give such a decided monopoly to the manufactures of hardware and ironmongery at Sheffield and Birmingham, is what your petitioners are not able to state; but they know and feel that such is the effect of the provision in question. This view, moreover, can be clearly made manifest from the following statements of a few of

the many articles which can be imported at and under the present cost of bar iron. By the letter from the Secretary of the Treasury of the 5th of February, 1830, transmitting statements of the commerce and navigation of the United States, &c. &c. printed by order of the House of Representatives, it will be found, at page 88 of that document, that, in the fiscal year 1828-'9, there were imported into the United States 65,896 pounds of hammers and sledges for blacksmiths, valued at \$3,049, equivalent to \$4 66½ per cwt., which is 33½ cents below the cost of bar iron in this market, exclusive of duty, and of which only 2,097 pounds were re-exported; so that 63,799 pounds of hammers and sledges have been imported, during the year mentioned, for the use of the American manufacturers of these very articles. Wheel-tire, which your memorialists in their former petition asserted could be imported, since that time has actually been imported, in a finished state, for about \$44 17; whilst bar iron, suitable for this purpose, is now selling at about 90 dollars per ton; more than double the price of what it cost when imported in a manufactured state from a foreign country! Frying and dripping pans, both in part and in whole manufactured, are now, and ever have been, imported, duties and all other charges included, at a less price than the cost of the sheet iron. Tea trays, of large sizes, made of doubled rolled sheet iron, with only one coat of paint or japan, can be imported, duties and other charges included, at \$83 72 per ton; whilst the iron required for the same purposes is selling at double the price, namely, at from \$160 to \$170 per ton. Tea trays of the above descriptions, therefore, can, and no doubt will be imported into the United States, to be converted into stove doors, blowers, coal scuttles, &c., as well as an almost infinite number of other articles of foreign manufacture, as a raw material, to be applied not only to the same, but various other purposes, unless the present exorbitant duties on bar, sheet, hoop, and rod iron be reduced to a uniform rate with the duty now imposed on the importation of hardware. Again—wire, No. 18, is imported, which costs four pence sterling per lb., or £37 6s. 8d. sterling per ton at par, equivalent to \$165 00

The duty thereon, at ten cents per pound, is	224 00
Making the cost of a ton of wire, No. 18, duty included	\$ 389 00
Knitting needles, of the same material, are imported, which cost five pence sterling per pound, or per ton equivalent to	\$194 00
The duty thereon, 25 per cent. ad valorem, is	52 37
Making the cost of a ton of knitting needles, duty included,	\$ 246 37

By the above statement, it is then manifest that a protection is given to the manufacturers of knitting needles at Birmingham and Sheffield, by the duty in question, amounting to \$142 63 per ton; and granted, too, by the provisions of an act of Congress of the United States, in conformity, as is alleged, with the known wishes and earnest solicitations of masters and owners of American forges and furnaces, and, what is well worthy of note, believed by them calculated to protect American industry! And these observations are equally applicable to wire fenders, sieves, and every other description of manufactures from iron. Again, hammered nails, that now pay the exorbitant duty of five cents per pound, are, nevertheless, almost exclusively imported, because the present duty on nail rods is so enormous as to preclude all possibility of competition between the domestic and foreign manufacturer. This last remark the following statement will establish: The cost of 120 pounds of nail rods, at Birmingham or Sheffield, is less than six shillings and three pence sterling, or, at par, \$1 37½; 120 pounds being required to produce 100 pounds of nails; that is to say,

the cost of the raw material of 100 pounds of nails, viz.	
120 pounds of nail rods in England, is	\$1 37½
The cost of three bushels of slack, (coal,) at three pence per bushel, is	16
The present duty is five cents per pound, or	5 00
Making the cost of the raw material of 100 pounds of nails, duty included, to the English manufacturer,	6 54
On the other hand, the cost of the raw material of 100 pounds of nails, viz. 120 pounds of nail rods, in the United States, is	6 60
The cost of three bushels of coal, at 28 cents per bushel, is	84
Add to this the loss arising from difference of facility in working, from its inferior ductility, equivalent to one-tenth of the labor, say	30
Making the cost of raw material and difference of labor of 100 pounds of nails, to the American manufacturer,	\$7 74

A difference, in point of cost, between English and American raw materials, for the manufacture of 100 pounds of nails, equivalent to one dollar and twenty cents. This loss to the American nailer is caused by the American iron maker not practically understanding the business. The cost of the iron, as compared with the amount of labor, profit, coal, &c. is as seven to thirty-five, or about one-fifth. At this rate, the duty on nails ought to be one-fifth on the iron, and four-fifths on the nails, to place the nailer on the same footing with the iron master; but as we have averaged the cost of the iron at one-third, and the labor and coals at two-thirds, your memorialists will pursue the same calculation. Now, three and a half cents per pound being the duty rods are subjected to, the duty on nails, at the same ratio, should be twelve cents and six mills per pound; which at once appears so extravagant, that no intelligent man, in or out of Congress, could be found its advocate. But reduce the duty on rods, the raw material, to a fair proportion with the duty now imposed on nails, and you at once transfer the making of nails from the British to the American manufacturer; and the importation of nail rods will certainly increase in the same proportion that the importation of nails will decrease; but your memorialists are further warranted in adding, that, from the increased consumption of American nails, the supply of foreign iron must necessarily be increased also. During the fiscal year 1828-9, we imported two hundred and sixty-six tons of rods made into nails; the first cost of these two hundred and sixty-six tons, in the form of rods, is known not to exceed \$7,388 88; now, if your memorialists deduct this latter sum from the whole amount paid to the British manufacturer of the 266 tons, in nails, namely, 36,723 dollars, it will leave \$28,336 18 cents. This last named sum, if the duties were equalized in the manner just pointed out, would give employment to as many, if not more American nailers, than it now does to the British. It is known to your memorialists, from the same inequality in the duties here alluded to, that horse shoes are actually becoming an article of importation, which heretofore have always been made by American smiths, and the cost of which, including duties and other charges, will not exceed the present price of bar iron. Hoops for water and other descriptions of casks, can be imported, duties and charges included, at 57 dollars per ton, being \$21 40 less than the duty on the raw material of which they are made. Hence a cooper, by importing his hoops ready riveted, and thus saving that part of his manual labor on the hoops, can save at least one-half the cost of the article, when imported as "hoop iron," or in its state as a raw material. Thus, it appears, whether your memorialists have reference to bar iron paying 37 dollars per ton duty, or sheet iron, hoop iron, nail rods, and round or square iron, of half an inch and under, all paying \$78 40 per ton, or wire paying from six to ten cents per pound, the result

in each particular case will be the same, as has just been demonstrated; making it, consequently, always cheaper to import the above descriptions of iron in a manufactured than in a raw state, and thus depriving American artisans of employment, to which they are so well entitled, without injury to the consumers, to the same extent, on these descriptions of iron, and now not in any manner benefiting the masters and owners of American forges and furnaces. Your memorialists cannot perceive why the importation of one article of hardware should be considered an evasion of the specific duty on bar iron more than another, as it is equally applicable to every description whatever, whether subject to ad valorem or specific duty; and yet the committee of the Senate contend that "there are many articles of hardware upon which there should be an increase of duty, particularly upon bedscrews, mentioned in the petition," as in opposition to all the above reasoning, supported as it is by the clearest and best established facts.

Sixthly. The Committee on Manufactures in the Senate remark, that "They are of opinion with the petitioners, that there should be just proportion between the duties upon bar iron and those upon hardware; but that this proportion can be more properly attained by increasing the duties upon hardware, than by reducing them upon iron, as this, without injuring the manufacturer of iron, would protect the manufacturer of hardware; but this, it seems, the petitioners do not ask or wish." Had the committee been well acquainted with the practical effects of the duties on iron and hardware, in relation to their operation on each other, and of course that no duty on hardware, short of that on iron, could "protect," as it is called, the manufacturer of hardware; and the duty on iron has already been shown to be from 159 to 282½ per cent., or an augmentation of from six to eleven times the present rates of duties on hardware, which your memorialists would not only consider impracticable, but altogether unjust, they having no other object in the relief they now pray for, than to be enabled to bring their own industry into fair and equal competition with the foreign manufacturer, which the present exorbitant duties on the raw materials they make use of wholly prevent, and which, they trust, must, from the statements already presented, clearly appear. Your memorialists will be excused for once more repeating, that, as long as the duty on the raw material is higher than that on the manufactured article, so long will the foreign manufacturer keep possession of the market. Moreover, if the duty on hardware should be raised above its present rates, so far from benefiting any class of your memorialists, it would only tend to substitute hemp, leather, wood, and other cheap materials, for the iron which is now used. On the other hand, a fall in the prices of iron, consequent upon a reduction of duties, would materially extend its use and promote its further consumption; and thus, whilst at the same time the business of your memorialists would necessarily be increased, the whole country, in the capacity of consumers, would feel its benefits. And your memorialists will here be permitted further to remark, upon the authority of all experience, that a nation which excels in the production of cheap iron, which can only be brought about by the freest and most unlimited competition, must excel in all the useful arts.

Seventhly. The committee of the Senate state, that "They have received no information to convince them that these articles, to wit, axes, adzes, drawing knives, cutting knives, sickles, or reaping hooks, scythes, spades, shovels, bridle bits, squares of iron or steel, steelyards, scalebeams, socket chisels, vices, and wood screws, are not sufficiently protected." Your memorialists, in their former petition, did not, nor do they now, ask for any additional burden to be laid on the consumer of the above articles; but they conceive that the fact, as stated by the committee, furnishes satisfactory proof that the manufacturer of the domestic is not on as favorable a footing in

the American market, as the manufacturer of the same foreign article. The committee acknowledges a duty of ninety-five per cent. on raw iron, which your memorialists believe they have already shown to be from one hundred and fifty-nine to two hundred and eighty-two and three-quarters per cent.; and at the same time the report of the committee states that they have received no evidence that the articles just enumerated are not sufficiently protected. Now, to your memorialists, nothing can be clearer than that three tons of iron in the form of hardware can be imported into the United States, as far as the duties are in question, at the same cost as one ton of iron in its raw state, according to the very statements furnished by the committee themselves. But, in point of fact, from six to ten tons can be imported in the state of hardware, for one ton in its raw state. In averaging the duty of seventy-eight dollars and forty cents per ton, with that of thirty-seven dollars per ton, supposing the duty on hardware to be thirty-five per cent., it evidently appears that the views presented by your memorialists could not have been entirely understood by the committee of the Senate.

Eightily. The committee of the Senate remark, that "There must evidently be a mistake in the statement of the petitioners, that there are annually imported sixty thousand tons of hammered bar iron." In reply, your memorialists beg leave to observe, that the committee have not clearly comprehended the views intended to be conveyed by this part of your memorialists' petition. Your memorialists have therefore now taken considerable pains in procuring documents and information from different sources, which enable them to present, as they hope, an entirely satisfactory exhibition of the same fact, or at least as far as the subject will admit of elucidation. In the first place, a quantity of iron contained in any given quantity of hardware, paying ad valorem duty, cannot be come at in any other way than by estimating it as forming an aliquot part of the first cost, which your memorialists estimate at one-third. But should it be here urged that this rate is too high, it then is manifest that your memorialists will have underrated their own labor, and consequently would be greater losers. Proceeding then on this basis, the following results are obtained, namely:

Imports of hardware, subject to an ad valorem duty of twenty-five per cent.	\$2,725,430
Imports of hardware paying a duty of from thirty to forty per cent., say thirty-five per cent.	440,201
Imports of hardware paying specific duties,	180,515

The whole amount of hardware imported during the fiscal year 1828-'9, - - - \$3,346,146

The raw material, iron, contained in the above hardware, amounted to 38,939½ tons, paying the ad valorem duty of 25 per cent. on the first cost of the iron, which was \$23 35 per ton, showing that each ton of iron of this description has actually been introduced into the United States at the rate of \$5 50 per ton, or within a small fraction thereof. Hence, the above 38,939½ tons must have paid, in duties, the sum of - - - \$214,167 25

The hardware subject to specific duties contained 6,289½ tons, paying, as above stated, 35 per cent. or \$8 25 per ton,	52,072 92
And 2,579 tons, paying a specific duty, say of \$7 per ton,	18,053 00

The whole amount of the duty paid on 47,798

tons in hardware, - - -	\$284,293 17
Had the above 47,798 tons been imported in its raw state of bar, sheet, rod, or hoop iron, the duty in that case would have been \$1,568,526, estimating the duty at only \$37 per ton, leaving out of consideration the duty of three and a half cents, and the first cost of hoop, sheet, and rod iron, and in both cases assuming the lowest duties, and the	

lowest priced iron. At this rate, the discriminating duty in favor of the British manufacturer was actually \$1,284,-232 83, for the fiscal year 1828-'9. We also imported, during the same period, about 3,000 tons of sheet iron, in the form of tin plates, upon which the iron contained in these plates, tin being free, paid fifteen per cent. ad valorem, or \$48,648 90. Now, had this iron been imported into the United States in the form of sheets, and had here been tinned, the duty on the iron in sheets would have been \$78 40 per ton, or - - - \$235,200 00  
Whilst in tin plates it only paid the sum of - - - 48,648 90

Making a discriminating duty in favor of the

British tinner, of - - - \$186,551 10

During the existence of such a discriminating duty, it will be utterly impossible to embark in the tinning of iron in this country; and, it may be added, furnishes, if it were required, additional proof of the absurdity of the present exorbitant duties on the raw material. Of steel and iron wire, there were imported during the year 1828-'9, into the United States, 463,145 pounds, equivalent to 206 tons 1 cwt. 2 qrs. 2 lbs., on which article the same discriminating duty in favor of the British wire-workers has also been carefully imposed, which will be seen by reference to the previous calculations in relation to knitting needles. The following is, therefore, a recapitulation of the quantity of iron imported in the shape of hardware, with the duty thereon which it is now subject to, namely:

Hardware subject to the duty of 25 per cent. ad valorem, in which the iron paid a proportional duty of \$5 50 per ton,	- 38,929½ tons
Hardware paying 35 per cent. duty, the iron paying \$8 25 per ton,	6,289½
Hardware paying specific rates of duty, in which the iron pays \$7 per ton,	2,579
Tin paying 15 per cent., in which the iron pays \$12 50 per ton,	3,000
Wire, paying from six to ten cents per pound	206
Sheet, rod, hoop, and other descriptions of iron, paying three and a half cents per lb.	1,167½
Bar iron, rolled, paying a duty of \$37 per ton,	3,332½

Making the total of the above descriptions of iron, all manufactured by the process of rolling, - - - 55,514½

To which add the imported hammered iron, 29,486

Making the aggregate quantity of iron imported into the United States during the year 1828-'9 amount to - - - 84,998½

Of which amount there have been re-exported, in all forms, - - - 3,654½

Showing the actual home consumption of foreign iron to be - - - 81,344

Now, if to this amount there also be added the quantity produced in the United States, which, according to the estimates of iron masters examined before the committee of the House of Representatives in 1828, was 30,000 tons, but which an intelligent practical man, who travelled through the United States for the express purpose of ascertaining the fact, as the result of the most careful inquiries, estimates at - - - 35,000

The annual consumption of iron in the United States will be - - - 116,344 tons.

Of these 35,000 tons produced in the United States, 10,000 tons only reach the seaboard, and, with the 81,344 tons of imported iron, make the actual quantity passing through the hands of the dealers in iron on the seaboard to be 91,344 tons, and 25,000 tons retained in the interior,

there to be used. From this statement, it appears that, of rolled iron, ten-elevenths were imported in the manufactured, and the remaining eleventh in the raw state; that the quantity of rolled iron, in all its various forms, compared with hammered iron, is nearly in the proportion of two to one; that the American manufactured bar iron which comes to the seaboard, compared with the imported foreign iron in all shapes, is in the proportion of one to nine, or out of 90,000 tons only 10,000 tons; and that the American iron, compared with foreign iron imported in the state of hardware, is in the proportion of one to six, or out of 60,000 tons only 10,000 tons; which last named quantity, according to the statements of the iron masters who were examined before a committee of the House of Representatives in 1828, included every description of iron brought from the interior to the seaboard of the United States. Your memorialists unhesitatingly and solemnly affirm that the protection which has been granted by the several acts of Congress to this very inconsiderable quantity of American iron, forming, as has been shown, so small a portion of the general supply, and the greatest proportion of which is owned by some of our richest capitalists, has not only been severely and oppressively burdensome to your memorialists, as artisans and mechanics, the extent and prosperity of whose business are dependent upon the abundant and cheap supply of this important raw material, but also to all the consumers of iron, in its almost innumerable forms, throughout every part of the United States. And your memorialists will add, that the proprietors of American iron ore banks, forges and furnaces, are, by the enactments in question, themselves made to feel the folly of such restrictions, it having already been demonstrated that the effect of these enactments is to cause iron to be imported in various manufactured forms, and thus lessen the demand for this invaluable metal in a raw state, whether American or otherwise.

Eighthly. As the committee of the Senate have pointed out to your memorialists, and may be considered as having recommended to them, to import iron in bars of a large size, to be here converted into the required small sizes by the American rolling mills, the impracticability of which has already been established, your memorialists feel authorized, under these circumstances, to submit their own views on this point, which entirely differ from those of the committee of the Senate. Instead of restricting the importation of iron, as is now done, by enormous duties on this material in its crudest raw state, your memorialists would admit pig iron entirely free, and not increase the present duties on hardware or manufactured iron, only about one-third of what they now are on the metal in its crude state. On this basis your memorialists will exhibit the following results: Pig iron, which, in Great Britain, generally sells at half the price of bar iron manufactured by rolling, may be estimated at three pounds sterling per ton, at par equivalent to \$13 33.

1½ tons of pig iron, the necessary quantity to make a ton of bar, - - - - - \$16 66

Exchange, six and a quarter per cent., the current rate, - - - - - 1 04

Freight, one shilling and six pence per ton, on one and a quarter tons, - - - - - 3 47

Commission, insurance, and other charges, say, - - - - - 1 00

The actual cost of a ton and a quarter of imported pig iron, - - - - - 22 17

175 bushels of charcoal, at four cents per bushel, in New Jersey and Delaware, - - - - - 7 00

Drawing, by the hammering process, - - - - - 9 00

Allowance for water privilege, dam, &c., - - - - - 1 00

Expense of overseeing, and contingencies, - - - - - 83

The whole cost of a ton of iron manufactured by hammering, when the pigs are imported free of duty, - - - - - \$40 00

But, when manufactured by puddling and rolling, the cost

of a ton of iron would be proportionably less. In support of the correctness of the above conclusions, your memorialists will refer to the testimony in relation to iron, given before the Committee on Manufactures in the House of Representatives, in January, 1828, by the Hon. Richard Keese and the Hon. John Mitchell, both members of the House, and by Mr. Joseph Jackson, of Morris county, New Jersey; the two former gentlemen having stated before the committee that they had been engaged in the business of making bar or bloom iron, and the latter, that he was then, and had been nearly all his life, engaged in the manufacture of iron; and all three of the gentlemen declared that they were well acquainted with the iron business. The statements about to be deduced are drawn from an average of the statements of all three of the above named gentlemen, and can be verified by reference to the minutes of evidence taken before the Committee on Manufactures, and printed by order of the House of Representatives, on the 31st January, 1828. Mr. Mitchell, it will be found, stated one hundred and seventy-five bushels of coal as the computed average for making and drawing a ton of bar iron from pigs; Mr. Keese said that five hundred bushels of coal is the usual quantity; and Mr. Jackson, eight hundred bushels the average quantity to make one ton of bar iron from the ore. By averaging these several statements, it will be seen that four hundred and seventy-five bushels of coal, at the average cost of five and a half cents per bushel, will be saved in making one ton of iron from imported pigs. It will thence follow, that in six items a saving of upwards of fifty dollars per ton will be effected by importing iron in pigs, as will be clearly exhibited by the following statement:

Pig iron, if imported, cheaper than ore, (as stated by Mr. Keese,) - - - - -	\$1 83
Saving, in the quantity of coal required, in the difference between blooming and refining from the pig, four hundred and seventy-five bushels, at five and a half cents per bushel, - - - - -	24 93
Difference in cost of drawing, between the same two processes, - - - - -	9 00
Carting, and water carriage to New York, - - - - -	8 00
Storage, and other expenses, as it can be made in or so near the markets in which the sales can be effected, - - - - -	4 50
Wash ore, measuring coal, small repairs about the forge, &c. - - - - -	4 00

Amount of saving on the above six items, if the pig be imported, - - - - - \$52 26

Now, if we subtract this amount from what Mr. Keese assumed to be the worth of a ton of iron in the city of New York, to wit, ninety dollars, the remainder will show the price, at which, by their statement, the same quantity of a better description of iron could, by the refining process, be produced from pigs, and yield the same profit to the manufacturer, which is the difference between \$52 26 and \$90, namely, - - - - - 37 74

The cost of a ton of iron, according to Mr. Keese, in the city of New York, (see page 23, Rep.) - - - - - \$90 00

It will be observed, that between this statement, the elements of which have been drawn from the testimony of Messrs. Keese, Mitchell, and Jackson, and that which your memorialists have given, there is a difference of two dollars and twenty-six cents, your memorialists' estimate of the whole cost of a ton of iron made from imported pigs being forty dollars. As the above gentlemen all spoke of the iron business being a losing one, this difference of two dollars and twenty-six cents per ton in their favor would afford them a handsome profit, without in-



cluding other deductions that could be made from their estimates. But they remarked before the committee, that their hands, team, work, coal, &c. were paid for by them in farm produce and store goods, which, it is well known, are charged at much higher rates than the same articles when obtained elsewhere, and which, moreover, is admitted by these gentlemen, in their evidence given before the committee, when they expressly declared that in this way their "losses" were made up. The difference, then, between the rates at which they dispose of store goods and produce, and the current cash prices of the same articles, unquestionably is a profit, which must be carried to the credit of iron, and not to that of goods and produce, which can never be considered, in any correct statement, as being worth more than the common market price. It may be further said, that, even according to their own views of profit and loss, however erroneous and inadmissible, as their "establishments" furnish a good market, some portion at least of the remuneration should be considered as belonging to the "establishment." The results here deduced, in relation to the manufacture of pig iron into bar, may be applied equally to blooms, scraps, loops, or other iron in a less manufactured state than bar; and the effect of the free importation, not only of pigs, but of blooms, scraps, loops, &c., would be highly beneficial to American industry, as the same articles are now imported in the state of hardware.

Nintaly. When your memorialists compare the duties on iron with those on teas, coffee, and salt, which, at the last session of the present Congress, it was deemed expedient to reduce, the former will be found to be much more objectionable than the latter. Iron in the bar is susceptible of having added to its value double its own cost; whilst tea, coffee, and salt, are all imported in the precise state they are ultimately consumed.

In conclusion, your memorialists beg leave to say, that, as the statements in their former petition were not fully comprehended by the committee of the Senate to whom they were referred, and that as they were, and are, anxious to make themselves clearly understood, they must be excused for taking up so much time with details which cannot be practically known but to themselves, and which, they believe, fully warrant the relief for which they now earnestly pray, namely:

First. That all the existing duties on pig iron, scraps, boiler plates, and all other iron in loops, slabs, blooms, or any other state less manufactured than bar iron, be abolished or repealed, and the importation of the same be admitted free of duty.

Secondly. That all bar iron, manufactured by hammering, be admitted subject to the duty of April 27, 1816, on its importation, to wit, at the rate of 45 cents per cwt.

Thirdly. That all descriptions of iron manufactured by rolling, including bar, bolt, rod, sheet, and hoop, of every size and quality, be admitted, subject to a duty not exceeding that now imposed on the importation of hardware, namely, twenty-five per cent.

Fourthly. That wire of iron or steel, of all sizes and numbers, be admitted, subject to the same duty as the manufactures of wire are now on their importation subject to, namely, twenty-five per cent.

Fifthly. That the duty now imposed on railroad iron, when punched in the United States, be remitted, or a drawback of the existing duty be allowed thereon on all sums exceeding fifty dollars.

And, lastly, that the existing duties on steel be abolished, and the importation of the same admitted free of duty.

All, then, that your memorialists ask, is, that the existing laws shall be so modified, that the iron which is now imported in a state of hardware can be imported in a cruder state, and thereby give equal advantages to your memorialists with those now enjoyed by the British in the American market.

## REPORT ON THE BLACKSMITHS' PETITION.

IN SENATE, FEBRUARY 28, 1831.

Mr. HAYNE, from the select committee to whom was referred "the petition of upwards of three hundred mechanics, citizens of the city and county of Philadelphia, employed in the various branches of the manufacture of iron;" and, also, the petition of the "journeymen blacksmiths of the city and county of Philadelphia, employed in manufacturing anchors and chain cables," reported:

That they have examined the subject embraced in these petitions with all the care and attention which its importance demands. Whether the oppressive operation of the present high duties upon iron be considered in reference to the industry of the petitioners, or the burdens imposed upon the great body of the people, the question is one which is entitled to a candid and thorough investigation. Of all the metals, iron contributes most to the wealth, the comfort, and the improvement of society. It enters most largely into the consumption of all ranks and conditions of men. It furnishes the mechanic with his tools, the farmer with the implements of his husbandry, the merchant with the means of fitting out his ship, and the manufacturer with the very instruments of his wealth and prosperity. The forest falls before the axe; and it is to the plough and the hoe, the spade and the harrow, the pickaxe and the crowbar, that the farmer is indebted for the means of bringing his fields into cultivation, and covering the wilderness with "a golden harvest." In all the operations of husbandry, iron is the indispensable assistant of the husbandman; without whose aid, his whole life would be wasted in a vain struggle to overcome the evils and hardships of his condition. He looks to it for traces and chains for his oxen and his ploughs; for tire for his wheels; for shoes and bits for his horses; for locks for his barns, and fastenings for his dwelling and enclosures; for the reaping and the pruning hook, the scythe and the saw, the hatchet and the hammer, the scales and the steelyards; in short, for almost all the instruments of his prosperity and comfort.

Iron is also the very basis of manufactures. Without its omnipotent aid, what would become of our grist mills and our saw mills; our rice machines, our cotton gins, and our sugar mills; our woollen and cotton factories, and even our steam engines? Our streams might run on forever, and water be evaporated into air; but the wheel would stand still, and not a shuttle or a spindle move in obedience to the will of man. The carpenter and the joiner, the millwright and the wheelwright, the smith, the carrier, and the tanner, the paper maker, and the book binder, nay, all who are engaged in the mechanic arts, require iron and steel (to them more precious than gold) for the very tools and implements of their trade. And look at the condition of the shipwright, the merchant, and the navigator. Without the spikes and the nails, the chains and the bolts, supplied by iron, how could your vessels, "either of commerce or of war," be prepared to encounter and overcome the perils of the mighty deep? Without an anchor, what ship could ride securely at her moorings? How could your steamboats, with their vast and complicated machinery, be enabled to stem the currents of your mighty rivers, bringing together, in harmonious intercourse, the distant parts of our extended country, and carrying back the streams of knowledge and improvement into the remotest corners of the Union? To civilize man, in every situation, iron is an article of indispensable necessity. To borrow the words of one of the ablest political economists of the present day—"Look where you will, in whatever direction you turn your eyes, iron meets you as the most convenient and most necessary of all substances that are not used for food, and without which even food itself could not be supplied; and it is found, from universal experience, that every nation exhibits skill, com-

fort, and power, in proportion as the raw material is produced more abundantly, more cheaply, and more perfectly. That nation which is practically acquainted with the manufacture, properties, and uses of iron, more than any other, is the most civilized, the wisest, the most powerful, and enjoys more of the comforts of human existence than any other, other advantages being equal." Indeed, when we consider all the diversified and important uses to which iron is applied in the various pursuits of life; its almost miraculous influence in enlarging the bounds of science, extending the powers and promoting the happiness of the human race, endowing man with an almost supreme dominion over the elements, and enabling him to compel them to minister to his wants and his comforts, we are almost tempted to believe that it is the mighty instrument, put into our hands by a wise and merciful Providence, to convert the primeval curse into the greatest of blessings.

With this brief view of the importance of the subject, the committee will proceed to the consideration of the case of the petitioners. It appears that, in March, 1828, while the tariff of that year was before Congress, the blacksmiths of Philadelphia presented their petition, setting forth the oppressive and unequal operation of the then existing duties upon iron, and pointing out the injurious effects that would necessarily result from the proposed increase of those duties. They even then complained "that they found themselves completely shut out of our own market by laws which they were told were made for their protection;" that they were "precluded from participating in the supply of the West Indian and South American markets, which they could supply in many articles, if they could obtain iron at a reasonable price;" that "their business was more depressed than most, if not all others;" and, tracing these evils to the abandonment of the principle "that the duty on the raw material should never exceed that on the manufactured article," they earnestly prayed "that the duty on all descriptions of iron manufactured by rolling should be twenty-five per centum ad valorem, the same as the duty on hardware." Regardless, however, of these remonstrances, the tariff of 1828 became a law; and it is certainly worthy of remark, that, while the protection of American industry was the known and avowed object of that law, not a single provision was introduced in favor of the blacksmiths, justly claiming to be considered "as the most useful mechanics in the world;" but, on the contrary, new and still more onerous burdens were imposed upon them, by adding seven dollars a ton to the already exorbitant duty upon bar iron, while the duty on hardware was suffered to remain at twenty-five per centum ad valorem. In the year 1830, the petitioners, having, by the further experience of two years, realized more fully the grievous operation of this system upon their employments, came again to Congress with another humble petition, setting forth the cruel operation of these laws upon their industry; complaining that they had been treated with the most cruel injustice, and as "if they were not members of the same political family;" pointing out the manifest inequality "of a specific duty amounting to from one hundred and forty to two hundred and fifty per cent. on that kind of iron out of which hardware is made, while an ad valorem duty of only twenty-five per cent. was imposed upon the manufactured article—thus operating against them as a double lever, from the duty on hardware rising and falling with the price of iron, while that on iron was specific and stationary;" and concluding with an earnest prayer "that they might be put on the same footing, in our own markets, with the foreign manufacturer, by a reduction of the duty on the raw material to an equality with that upon the hardware." This petition met the same fate as that which had preceded it. The case of the petitioners was indeed examined by the Committee on Manufactures; and, in a report made to the Senate, it was

not denied that the petitioners had just cause for complaint. It was admitted that they were entitled to be put, in our own markets, on the same footing as the foreign manufacturer, and that this could only be done by establishing "a just proportion between the duties upon bar iron and those upon hardware;" yet, because a reduction of the duty on the raw material was the remedy suggested by the petitioners, no attempt was made to afford them relief. Under all these discouragements, the committee cannot but admire the manly spirit which has induced the petitioners once more to come before Congress, with a complete vindication of themselves from all the imputations which have been attempted to be thrown upon them, with a clear and satisfactory statement of their grievances, and a full and conclusive refutation of all the arguments which have heretofore been urged against their claims. Regarding this petition as one of the ablest and most valuable documents which has of late been issued from the American press, the committee would specially invite the attention of the Senate to it, as a complete and satisfactory exposition of the whole merits of the question. Indulging in no speculations, building up no new theories, the petitioners have, as practical men, brought the maxims of sound common sense and the lessons of experience to the elucidation of the case before them, and have deduced conclusions which, in the opinion of the committee, are absolutely irresistible.

It appears from the petition, (which is fully supported by the statement of John Sarchet, one of the petitioners,) that English common iron, the material used almost exclusively in the manufacture of hardware, was selling in England, at the latest advices, at £5 5s. sterling, equal to \$23 33 per ton, the duty on which, at \$37 per ton, is equal to 159 per cent.; that the price of smaller sizes of the same iron (such as half inch and under) was £6 5s. sterling, equal to \$27 75 per ton, the duty on which, at \$78 40 per ton, amounts to 282½ per cent. It is of this latter description of iron that hardware is chiefly manufactured; and the petitioners declare themselves unable to conceive what could have "led the framers of the law, by this discrimination, to give such a decided monopoly to the manufacturers of hardware and ironmongery at Sheffield and Birmingham." An answer to the question may probably be found in the suggestion contained in the report of the Committee on Manufactures, that "there are rolling mills which have been in operation for several years in the county of Morris, in the State of New Jersey, and elsewhere, where common bar iron may be converted into bars and bolts of the smaller size, at a small expense." It is stated by the blacksmiths, however, that some of them have actually paid to the American manufacturers 25 dollars a ton for rolling iron of one inch and under into five-eighths of an inch, and from the same sizes into half an inch 30 dollars a ton; while the whole cost of the former to the manufacturer of hardware in Great Britain is only \$23 33 per ton, and of the latter \$27 77, whereby the British manufacturer is enabled to import the same into the United States, in the form of hardware, (duty included,) at from \$28 83 to \$35 39 per ton, "the discriminating duty in favor of the British manufacturers being, on all sizes of iron over half an inch, \$31 50, and on half-inch \$70 77½," the duties on hardware manufactured of the smaller sizes of iron being only one-eleventh of what they are on iron as a raw material, and on hardware made of larger sizes about one-sixth. In illustration of the practical effect of these unequal duties, several cases are stated by the petitioners, and specimens of the various descriptions of hardware, as well as of the material of which they were severally made, have been exhibited to the committee. From these statements it appears that, under the existing rate of duties, a ton of hammers and sledges can be imported, (nay, it appears from the last Treasury report

that they have actually been imported,) "for the use of the American manufacturer of those very articles," at a less cost than the bar iron of which they are made. Wheel tire has actually been imported in a finished state for about \$47 17, while bar iron, suitable for this purpose, is selling at about 90 dollars a ton, more than double the price of what it costs when imported in a manufactured state. Frying and dripping pans, both in part and in whole manufactured, are now, and ever have been, imported, duties and all other charges included, at a less price than the cost of sheet iron. Tea trays, of large sizes, made of double rolled sheet iron, with one coat of paint or japan, can be imported, duties and all other charges included, at \$83 72 a ton, while the iron required for the same purposes is selling at double the price, say 160 to 170 dollars a ton. Wire, No. 18, is imported, which cost (duty included at 10 cents a pound) 389 dollars a ton, while a ton of knitting needles, of the same material, costs (duty included) only \$246 37, being \$143 63 a ton less than the cost in the United States of the material of which they are made, whereby a protection to that amount is given to the foreign manufacturer of knitting needles. Hammered nails, which now pay the exorbitant duty of five cents per pound, are, nevertheless, almost exclusively imported, on account of the enormous duty on nail rods, whereby a difference in point of cost is created between the English and American raw material for the manufacture of nails, of \$1 20 in every 100 pounds. Hoops, for water and other descriptions of casks, can be imported, duties and charges included, at \$57 a ton, being \$21 40 less than the duty on the raw material of which they are made.

In the petition of the journeymen blacksmiths, it is further stated, "that, previous to the additional duty on bar iron by the act of 1828, and the fall on iron in Great Britain, about the same time, they were enabled to support their families decently and comfortably, with a prospect of giving some education to their children; but the causes above mentioned have nearly driven the produce of their own industry out of the market." The means by which this result has been produced are clearly set forth and explained in their petition, and fully illustrated by Mr. Sarchet in his statement, (to both of which the committee beg leave to refer,) from which it manifestly appears that a ton of chain cables can now be imported into this country at a less cost than the rods out of which they are made, whereby the petitioners, who have been for many years employed in the manufacture of chain cables, have been brought to the very brink of ruin.

From these and many other examples, it appears, that, whether we have reference to bar iron paying a duty of thirty-seven dollars a ton, or sheet and hoop iron, nail rods, and round or square iron of half an inch and under, all paying a duty of seventy-eight dollars and forty cents per ton, or wire paying from six to ten cents per pound, "the result in each particular case will be the same, making it, consequently, always cheaper to import the above descriptions of iron in a manufactured than in a raw state," thus, of course, depriving the American artisans of employment, which result is produced, not from the duty upon hardware being too low, (for these duties average about thirty-five per cent.) but from the exorbitant duty on iron, averaging from one hundred and fifty-nine to two hundred and eighty-two and three-fourths per cent.

The case, when thus plainly stated, carries with it its own best commentary, and renders argument unnecessary. Well might the petitioners inquire how it has happened that a law so oppressive, unequal, and unjust, could have found its way into our statute book, or been suffered to remain there one moment after its true character had been fully exposed. It will be for the country to say whether the true answer has not been given by Mr. Sarchet, when he says, "that, in the duties heretofore imposed on iron, the iron masters have only considered themselves, and

have regarded the mechanics no more than if they were nonentities." It would, indeed, seem as if the tariff had been framed by a combination of interests, from whose counsels the hard working, honest, and industrious mechanics had been entirely excluded. It would almost appear that the joint stock companies, the large capitalists, the owners of woollen and cotton factories, ("those lords of the spindle and the loom,") and the wealthy iron masters, (all ably represented in the national councils,) have been looking only to their own interests, while the mechanic and the laboring man have been overlooked and disregarded. It has, no doubt, often happened, that honest and hard working men (unskilled in "the mysterious trade" of enriching themselves at the expense of others) have found themselves pressed down by this system of indirect taxation, though unable to discover the secret springs of that grand machine (miscalled the American system) by which all their efforts are paralyzed—a system artfully contrived "to make the rich richer," while it humbles in the very dust the best hopes of those whose "hard hands and honest hearts" entitle them to the grateful consideration of their country.

Mr. Sarchet tells us that he has been engaged for thirty-five years in the blacksmith's business; that he has travelled extensively, and seen much of the world; but "that he has never seen any blacksmiths so poor, or carrying on a less prosperous business, than those in the United States at this time; which is owing, as he believes, to the high duty which they are compelled to pay on iron."

The committee forbear from making any further remarks on the manifest inequality and injustice of the existing duties, and they do this the more readily, since, whatever difference of opinion may prevail as to the precise extent of the evil complained of, there is and can be none as to its existence, or as to the just claims of the petitioners to redress. The petitioners have insisted that it is absolutely necessary that a "due proportion" should be observed between the duties on the raw material and the manufactured article; and as the Committee on Manufactures, in their report made last year to the Senate, have recognised the correctness of this principle, it only remains to be considered by what means this due proportion can be obtained. The petitioners insist that this can only be accomplished by a reduction of the existing duty on the raw material, while the Committee on Manufactures contend that it can be best effected by a corresponding increase of the duties on hardware. In proceeding to the examination of this question, the committee cannot refrain from the expression of their admiration of the enlightened and liberal views which seem to have governed the petitioners on this occasion. With a magnanimity worthy of all praise, they have scorned to relieve themselves from unjust and unequal burdens, by attempting to throw them upon the shoulders of others, and have firmly and manfully resisted all the temptations held out to them "to ask" that their industry should be protected by the imposition upon others of the same exorbitant duties of which they have so justly complained.\*

The committee could not forbear from doing this justice to the wisdom and the virtue which have enabled the petitioners to discern the true policy of the country, and to rise superior to all temptation. In the examination which they have made of this subject, the committee have been forcibly struck with the sound and conclusive reasons which the petitioners have adduced in support of the position, that a low duty on the raw material is the only just and effectual means by which American manufactures can receive a wholesome encouragement; that the "due

\* In the report of the Committee on Manufactures, it is stated "that the committee are of opinion that there should be a just proportion between the duties upon bar iron and those upon hardware, but that this proportion can be most properly attained by increasing the duty upon hardware, &c. But this it seems the petitioners do not ask or wish."

proportion" which all admit ought to be preserved between the duty on the raw material and that on the manufactured article, can, in this instance, only be attained by a reduction of the duty on the former; and that such a measure, whilst it would duly encourage the American mechanics, and lessen the tax upon consumers, would not be injurious to the owners of the rich and valuable iron mines of the United States; and, so far from diminishing the resources of the country, that such a measure would add greatly to the comforts of the people, and promote their prosperity in peace, and security in war. Nothing can be more obvious than the position assumed by the petitioners, that, to preserve this "due proportion," the same protection must be afforded to their industry that is extended to the iron masters: but as the latter has been shown (according to the statement of the blacksmiths) to be equal to from one hundred and fifty-nine to two hundred and eighty-two per cent., it follows that the duties upon hardware must be augmented to an amount which would not only be manifestly unjust, but altogether impracticable.

The committee believe, with the petitioners, that if such exorbitant duties could be imposed upon hardware, so far from benefiting any class of the community, it would tend to introduce smuggling and evasions of the revenue, and lead extensively to the substitution of hemp, leather, wood, and other cheap materials, for the iron which is now used. It is the interest of every nation to introduce iron as extensively as possible into the consumption of the people, because it is, of all known materials, the strongest, the most durable, and capable of being applied to the greatest variety of uses. All experience has shown that exactly in proportion to the low rate of duty, and consequent cheapness of the raw material, is the general use of this article. In this respect the present condition of England and France furnishes an admirable commentary on the impolicy of the protecting system, when applied to an article of such primary necessity, and which contributes so essentially to the comfort, prosperity, and improvement of the people. It is stated, that, in consequence of the moderate duty and low price of iron in England, the consumption of iron in that country, in comparison with that of France, (where the protecting system has been carried to the utmost extent,) is (in proportion to population) as thirteen to one; and we learn from the most authentic sources, that the consequence is every where to be traced in the more highly improved state of agriculture and the mechanic arts throughout Great Britain, while in France the eye is every where offended by the rude machinery and coarse implements of husbandry which the people are constrained by the impolicy of their laws to use. In England, the low duty has greatly enlarged the consumption of iron, and increased the production of their mines, while in France the high duties have produced directly the contrary results.

Every dictate of justice, and every consideration of sound policy, therefore, combine in bringing the committee to the conclusion that the petitioners are entitled to relief; and they are convinced that this relief can only be afforded by reducing the duty on raw iron, as prayed for in the petition—a measure which, they are satisfied, would be attended with the happiest consequences to the whole community. By reducing the duty on raw iron, this material, and every article of hardware, could be furnished to the consumers at a more moderate price.\* By the law as it now stands, every farmer in the country pays a tax

equal, it is believed, on an average, to forty dollars on every hundred dollars' worth of iron which he consumes. An abundant supply of cheap iron, while it would give a new impulse to the industry of our mechanics, would supply the wants of all other classes of our fellow-citizens, by furnishing a better article, and at a cheaper rate. The foreign, added to the domestic competition, would bring down the prices of bar iron, as well as of hardware, to the lowest rate at which they could be furnished. Iron would be much more generally used, and every man in the country would be relieved from a portion of the taxes which he now bears. And why, let us ask, should this blessing not be bestowed upon the people? Because it is feared that the profits of the iron masters would be lessened; that, possibly, a few iron mines would be thrown out of use, and the supply of American iron be diminished. That a diminution in the price of iron might cause a few worn out and worthless mines (forced into existence, and sustained by the bounty) to be given up, and might, in some instances, lessen the profits of the iron masters, is not improbable; but that the rich mines of Pennsylvania, or of the Western country, would be abandoned, the committee cannot bring themselves to believe. Most of these mines, it has been shown, are out of the reach of foreign competition.\* They were profitably worked before the revolution, and flourished under a protecting duty of only five per cent. The fresh impulse that would be given to the industry of the country, the increase in the consumption of iron, and the consequent enlargement of the demand, would, it is most confidently believed, produce a corresponding increase in the production of our mines; while the great addition to the number, and consequent improvement in the skill, of our artisans and mechanics, would enlarge, in an equal degree, the resources of the country in peace and in war. In every view of the subject, therefore, the committee is satisfied that the relief prayed for by the petitioners, while it is essential to save them from impending ruin, can be afforded not only without injury to others, but with entire safety to the country, and to the great and lasting benefit of the whole community. Under this strong conviction, the committee would not hesitate to report a bill for the relief of the petitioners, but that the few days which now remain of the session must preclude all hope of such a measure being acted on at this time. They content themselves, therefore, with submitting the whole subject to the favorable consideration of Congress, with a distinct expression of the approbation of the committee of the general views of the petitioners, and the hope that the blacksmiths and workers in iron throughout the United States will not be discouraged by their repeated failures to obtain justice; but that

\* It appears from the statement of Mr. Sarchet, that while there are one hundred thousand mechanics and workers in iron in the United States, there are probably not more than eleven thousand persons in all, employed in preparing and making bar iron, and that this includes wood choppers, coal burners, &c. &c., and that of this number three-fifths are employed in the country, out of the reach of competition. Mr. Sarchet supposes that not more than three thousand of this number are mechanics; and, to give them employment, one hundred thousand blacksmiths are oppressed, and the addition of fifty thousand to the number prevented.† From an elaborate statement and calculation, contained in the petition, (to which the committee beg leave to refer,) it also appears, that the whole annual consumption of iron in the United States is 116,344 tons; that, of this quantity, 81,344 tons are of foreign, and 35,000 tons of American iron; that of these 35,000 tons, only 17,000 reach the seaboard. From this statement, it also appears, that, of rolled iron, ten-elevenths were imported in the manufactured, and only one-eleventh in the raw state; that the American manufactured bar iron, which comes to the seaboard, compared with the foreign, is in the proportion of one to nine—10,600 tons (according to the report of the Committee on Manufactures, made to the House of Representatives in 1828,) being the whole amount, including every description of iron which is brought from the interior to the seaboard. And it is (say the petitioners) "for the protection of this inconsiderable quantity of American iron," that the duties complained of have been imposed.

† In support of this statement, Mr. Sarchet refers to the testimony of the iron masters, taken before the Committee on Manufactures in the House of Representatives, in 1828.

\* Mr. Sarchet states, "that, if he could get his iron free of duty, he would contract to furnish cut nails at 3½ cents per pound; they now sell for 5½ cents. He would make wrought nails at an amount less by the duty, that is to say, at 5 cents less than the present price." Similar reductions in price would probably be produced in most descriptions of hardware. Mr. Sarchet estimates that, of "the 47,000 tons of hardware now annually imported, 35,000 tons would be manufactured in this country."

they will again bring forward their claims before Congress at their next session, in a shape calculated to command the attention of that body, and to ensure the blacksmiths a "happy issue" out of all their difficulties.

## SUPPLEMENTAL REPORT.

Since the above report was prepared by the committee, a memorial has been referred to them, signed by a large number of "the citizens of the city and county of Philadelphia, engaged in the manufacture of iron, and of those friendly to the production of it in this country;" and six copies of the same, signed by a number of the citizens of New Jersey, have also been referred to them. This memorial, it appears, has been "got up" in opposition to the foregoing petition of the blacksmiths, the statements and arguments of which it strongly controverts; and the memorialists conclude with "a deprecation of any reduction of the present rate of duties upon iron." The committee have bestowed on these memorials that respectful attention which is due to the representations of every portion of their fellow-citizens. They have examined the ground assumed by the blacksmiths, and, having compared the reasoning urged on both sides of the question, are satisfied that there exist no such errors, either in the facts or arguments relied on by the blacksmiths, as to shake the confidence of the committee in the soundness of their views, or the correctness of their conclusions. Having already occupied so much space in presenting their views of this question, they will now only advert to a few topics introduced into this memorial, which seem to require comment. With regard to the surprise expressed by the memorialists, that, after such "decisive acts of the last session of Congress," in relation to the claims of the blacksmiths, an attempt should be again made, by the same individuals, "to disturb the interests of the iron manufacturers," the committee feel themselves compelled to declare, that, even if Congress had adopted the most decisive acts in reference to these claims, it would furnish no just ground, either of surprise or complaint, that American citizens, believing themselves to be aggrieved, should continue to urge their just claims while any hope of relief shall remain. The "decisive acts" alluded to, however, consisted merely in a report of the Committee on Manufactures, which never received the sanction of either branch of Congress. When it is asserted that the object of the blacksmiths is "to withdraw the protection extended to the manufacturers of iron," to "build up a new fabric on its ruins," and to deprive this country of the only mode by which a supply of cheap iron can be procured, it is manifest that the memorialists have not understood either the true objects of the petitioners, or the means by which it is proposed to attain them. It is impossible to conceive that the petitioners could have any other object in view than that which they have avowed, viz. the securing an abundant supply of cheap iron: for it is by this, and this alone, that they can ever be enabled to enter into successful competition with British workmen "in the manufacture of the various articles of hardware;" and if this be a "new business," it is one that cannot, in the opinion of the committee, be entered upon too soon, or prosecuted too earnestly; and, whatever may be the views of the petitioners, the committee can hardly imagine an object of greater "national importance," than to raise up, by the operation of a system of just and equal laws, which shall leave labor free to seek its own employment, a band of hardy and industrious mechanics and artisans, constituting, as they must, the strength and pride of their country, and who, if they cannot present themselves with "clean hands," will assuredly come with pure and honest hearts. If these men have justly incurred censure in supposing that cheap iron would be more certainly obtained by enlarging the field of competition, the committee can

only say that it is a censure which they are perfectly willing to share with the petitioners, and with the great masters of the science of political economy, whose labors have enlightened the world. The notion that "high duties reduce prices," and, at the same time, afford protection to the domestic manufacturer, involves a paradox too gross to be believed by any one not blinded by interest, or laboring under what the committee must consider as a most extraordinary delusion. It is an idea resting, as far as the committee can perceive, on no better foundation than the great reduction in prices which has taken place of late years in all descriptions of manufactures—a reduction influenced by other causes than the operation of a tariff of protection, as is fully proved from the fact that it has extended indiscriminately to every part of the civilized world, and has been produced in at least an equal degree upon articles which have received no protection. How it is possible that the high duty on iron should have reduced the prices, and be calculated to reduce them still further, while it is asserted that "a removal of the duties would be the entire destruction of every iron establishment in the United States," is to the committee utterly incomprehensible. With respect to the sarcasms in which the petitioners have indulged in reference to Mr. Sarchet, who is stigmatized as a "foreigner from the island of Guernsey, laboring under the most violent of all prejudices—an English prejudice," the committee feel themselves, in justice to Mr. Sarchet, bound to declare that they have never, in the whole course of their experience, come across an individual possessed of more practical knowledge of the subject, of clearer or more liberal views, freer from prejudice of any description, or more entitled to implicit confidence. Though a native of the island of Guernsey, he has resided for near thirty years in the United States, during the whole of which period he has been distinguished for his industry, intelligence, and probity.

But, whatever may be the demerits of Mr. Sarchet, it will not be pretended that the three hundred American mechanics, who, by joining in the petition, have given their sanction to its contents, are not as much entitled to respect and confidence as the memorialists themselves; nor can the country fail to see the very different ground on which the parties to this controversy stand; the one claiming for their industry nothing but freedom from restraint, and the other asking for protection; the former seeking only relief from oppression, and the latter insisting on securing to themselves the fruits of that oppression. There is a wide difference, too, in the reliance to be placed in their respective statements, (without intending to impeach the character of any of the parties.) The blacksmiths, in pointing out the inequality of the existing duties upon raw and manufactured iron, speak from their own personal experience, and a thorough practical knowledge of the subject, while the memorialists have candidly acknowledged "that they are not sufficiently conversant with the details of the subject to judge whether or not there exists a just proportion between the duties upon bar iron and those upon hardware."

The allusions to "English prejudices," &c. &c. which run through the memorial, cannot be misunderstood. They are the appeals too often and too successfully made to that very prejudice which the memorialists affect to condemn. "American industry" is the delusive phrase artfully employed by those who choose to consider their own industry as exclusively American, and who attempt to conceal, under the mask of patriotism, an exclusive devotion to their own peculiar interests. The true American system, in the estimation of the committee, consists in free trade and unrestricted industry; and they cannot bring themselves for one moment to believe that the capital and industry employed in the fabrication of cotton and woollen cloths, or in digging iron ore from the mines, are more strictly American than that employed in raising cotton or wool, in



building ships, carrying on commerce, or even converting iron into hardware. Nor can they bring themselves to believe that either of these interests is more entitled to protection than the others, or that any of them can have the smallest claim upon the country, except that their labor and capital should be left free to seek their own employment, and to secure their own reward, without being burdened with unnecessary taxes.

The complaint made against the repeated applications to Congress to reduce the duties, "as one of the devices employed to impede the progress and extension of the manufacture of iron in this country," is so manifestly unfounded and unjust, that the committee are only induced to notice it as a manifestation of "the temper and spirit" which animate the petitioners on this occasion. It is altogether inconceivable that the mechanics and workers in iron could have the least desire, much less "employ devices" of any kind, to prevent the production of cheap iron in this country, since their own interest, as well as the welfare of their country, is alike to be promoted by obtaining the largest supplies of this material, and at the cheapest rates. It may be true that these repeated applications "create alarm in those already concerned in the iron mines;" and it would no doubt be extensively gratifying to them to be allowed to consider "the faith of the Government" as so far "pledged" to this system of protection as not to suffer its stability ever to be questioned. But the petitioners may be assured, that, so long as this system is felt by a large and respectable portion of their fellow-citizens as a burden unjustly imposed upon them for the benefit of the manufacturers of iron, so long will the applications for its modification continue to be urged with untiring energy and zeal. It may be worthy of their consideration, therefore, whether it would not be to their advantage to obtain that "security and permanence" for their establishments, which they consider as "essential to their success," by consenting, at once, to such a reasonable reduction of the duty as would remove all just grounds for future complaint; and it may be also worthy of their consideration, as patriotic citizens, whether they ought not even to make some sacrifices to that spirit of discontent which so extensively prevails throughout the United States in reference to this system. The appeal which the memorialists have made, in order to enlist other interests in their cause, by suggesting that the mechanics' petition "has been got up for the purpose of destroying the whole system of a protecting policy, and that it lays the axe to the root of the entire system," contains a clear development of the plan by which this system is maintained, which all admit to be extremely imperfect, and, in many of its parts, grossly oppressive and unjust. It is a system maintained by a combination, founded on the mutual support of what is called an "entire system," but which is in fact a mere collection of exorbitant duties, indiscriminately imposed on raw materials and manufactured articles, without any method or system whatever—a combination which resists all modification or improvement, which seeks to shut out inquiry, and would ever stifle complaint. As the memorialists have quoted the opinion of the President of the United States on one branch of this subject, we will quote, for their instruction, his opinion on the very point now under consideration. In his opening message to Congress, the President specially warns us against that desire "to sustain a general system," by "purchasing the support of different interests;" and strongly denounces "those acts of majorities, founded not on an identity of conviction, but in a combination of small minorities, entered into for the purpose of mutual assistance in measures which, resting only on their own merits, could never be carried." The committee are inspired with fresh confidence in the correctness of the views they have taken on this subject, from the fact that the memorialists have not attempted to contradict any of the material facts stated by the black-

smiths, and that, with regard to such as they have contradicted, they have not succeeded in maintaining their positions. Take, for example, their estimate of the quantity of iron now annually produced in the United States. By a conjectural estimate, founded on no satisfactory data, they have assumed that 120,000 tons of iron are now annually produced in this country; but when the Committee on Manufactures of the House of Representatives made a "personal examination" of this subject in 1828, calling before them experienced iron masters, they could not obtain information of more than 30,000 tons; and Mr. Sarchet informs us that a gentleman, who not long since travelled through the United States, for the express purpose of ascertaining the truth on the subject, estimated the whole production at only 35,000 tons; and yet the memorialists have not hesitated to put down at a venture the quantity of iron made in the United States at 120,000 tons. The committee will not pretend to decide the question, but certainly the weight of authority is against the memorialists. The committee are sensible that they have already consumed too much time on this subject, and they will therefore conclude with the expression of a decided opinion that the iron masters, and others concerned in these petitions, have presented no new facts, and urged no arguments, that shake the positions assumed by the blacksmiths, or which go to show that a reduction of the duty on raw iron ought not to take place.

*John Sarchet's statement, January 31, 1831.*

At a meeting of the select committee of the Senate, to whom was referred the petition of certain citizens of Philadelphia, "mechanics employed in various branches of the manufacture of iron," praying for a reduction of the duty on the raw material used in the various branches of their manufacture, John Sarchet, one of the petitioners, was called before the committee, and, on his examination, said: That he is a chain and anchor manufacturer, and generally engaged in the ship-smithing business, in Philadelphia, where he has carried on that business for the last six years. He has been for thirty-five years engaged in the blacksmith's business; has resided in Pennsylvania for the last fourteen years, and is well acquainted with the course of the iron business there. The effect of the additional duty of \$7 a ton, imposed by the tariff of 1828 on rolled iron, was most severely felt by the workers in iron. It amounted to an addition of twenty per cent. on some qualities of iron in which they worked: he alludes to English common iron. [The witness here produced specimens of several descriptions of iron manufactures, and also of the raw material of which they were made. The first consisted of two iron bars, the one punched for railroads, and the other plain, of the like quality; the next a chain, and a piece of the iron rod out of which it was made.] The witness then stated that the duty on the bar, thus prepared for railroads, was, when laid, twenty-five per centum ad valorem; the cost of such iron in England, at the cash cargo price, was £5 5s.; and £5 10s. at six months. In Wales, Staffordshire iron was worth 10s. a ton more. The expense of punching it was about 25s. a ton; equal, at the usual rate of exchange, to \$5 50. The fair average price in this country, therefore, of this punched iron, would be about \$50 a ton; while the cost of the plain bars, out of which it was made, would be about \$70 a ton. The first cost being £5 5s., and the duty \$37 a ton, it followed, therefore, that railroad iron could be imported at \$20 a ton cheaper than the bar iron out of which it is made; and it is, therefore, impossible to prepare railroad iron in this country now.

Since the year 1828, there has been a fall in the price of iron in England, from £8 to £5 10s. a ton, which has operated to increase the duty, in consequence of its being a specific duty. Hammered iron is made in England, and

some of it is imported into this country. Reeves and Whitaker, and Mark Richards, of Pennsylvania, have imported it. It costs, duty included, about \$78 a ton. Believes it to be a mistake to suppose that the quality of iron depends on the process of hammering or rolling, by which it is prepared; thinks it depends chiefly on the purification by fire; the oftener it is heated, and the harder it is pressed, the better it will be.

Before the witness came to Philadelphia, he followed his business in Ohio. He came to the United States in 1806, and went to Ohio in 1807, where he remained ten years. He is a native of the island of Guernsey, where he followed his business until he came to this country. The witness knows of no railroad iron having been used for other purposes than railroads, either before or after the passage of the law granting a drawback. In relation to the chain and rod, before alluded to by the witness, he said that a ton of the chain could be imported into this country at \$40 65 cheaper than the rods out of which it is manufactured, allowing the same for manufacturing in each country; the duty on the former being  $3\frac{1}{2}$  cents per lb., (equal to \$78 40 a ton,) and on the latter 25 per cent. ad valorem. There is a difference, however, in rating such chains as this, in New York and in Philadelphia: in New York, it is rated as a chain, which pays a duty of 25 per cent. ad valorem; while, in Philadelphia, it is called a chain cable, and is charged at three cents a pound. There is no doubt, however, that it ought to be charged as a chain, and not as a cable, since it is too small to be used as a cable for any but oyster boats, while its proper and general use is for topsail sheets and ties, for hoisting goods up, &c. &c. This is a half-inch chain, and made of English common iron: the price of the rods in England is about 26 5s. per ton, cash, cargo price. There is a loss of from 12 to 20 per cent. in manufacturing rods into chains; 12 per cent. may be taken as the average loss in manufacturing iron: this, of course, increases the duty on the raw material in proportion to that on the manufactured article.

The average price of such iron, imported in large bars, up to two inches, would be from \$73 to \$75. The witness here produced a bolt, which, he said, was imported in bars: it cost \$78. He had made it into rods in this country, and it cost the witness \$105; if made in England, would not have cost more than \$85. Thinks the expense of converting bars into rods in this country would be about \$20 a ton: he has paid \$25 for five-eighths, and \$30 for half-inch. It is much cheaper to make the bolts or bars originally, than to roll it into bolts or bars afterwards, as this would require a second heating. It would just make the difference between an expense of \$4 44 and \$20. The witness here produced a shovel, finished, with the exception of the handle, and stated that the duty on this article, and also on frying-pans, and other articles made of sheet iron, is 25 per centum ad valorem; and that a ton of such articles can be imported into this country at \$34 62 less than the materials of which they are made; so that it is, of course, impossible to make such articles in this country. If the duty on iron were reduced, he thinks that the duty on chains could also be reduced in a short time, without injury to the chain makers. If it were raised, as suggested by one of the committee, [Mr. DICKERSON,] the only effect would be to drive chain cables out of use in this country, and to introduce cordage as a substitute. He knows that the present high duty has already produced that effect, to some extent. The ship owners would be driven, too, to supply their ships with chain cables abroad, in the place of hemp cables carried out from this country, which would be cut up for junk; and where the duty had been paid on a chain cable, another would be procured in England, and the old one be turned over to another ship. Believes this has already been done in some cases, in consequence of the

high duty. The duty of three cents a pound on chain cables can afford no protection to the American blacksmith, while the duty on the raw material is as high as it now is. Their industry can only be protected by bringing down the duty on the iron, so as to enable them to procure the material in which they work at as cheap a rate as the manufacturers of other countries. This would also encourage the consumption of iron, and increase the demand for their labor. The witness here stated, that, though American iron was well fitted for several uses, as stated in the blacksmiths' petition, yet it was not adapted to the manufacture of chain cables; in proof of which, he produced a chain cable, one part of which was made of English, and the other of American iron: the former had been in use for six years, and the latter for only three; and yet, as might be seen on examination, while the English part of the chain was still good, the American had been nearly corroded through with rust. This difference was beginning to be so well understood in this country, that American captains, who were aware of it, would hardly take a cable made of American iron. An experienced whalerman lately told him he would not take a chain cable made of American iron as a gift. The witness here exhibited a horse-shoe imported from England, a ton of which would cost just about the same thing in this country as the iron out of which they are made. He exhibited, also, some English iron bedscrews. It is impossible now to make such in this country. If witness should buy the iron to make a gross of such screws, and were to throw in his labor and fuel for nothing, he would be glad to pay upwards of one dollar out of his own pocket to have them taken off his hands. The witness next exhibited a bundle of English knitting needles, and confirmed all the facts stated in the blacksmiths' petition in relation to them. The witness then, referring to the petition, said he had carefully examined all the facts and arguments therein contained, as well as those contained in the former petitions on the same subject, and that he now confirmed all the statements contained in them, with the single exception of the variations which may have taken place in prices since they were drawn. After an investigation of the whole subject, and a careful examination of the present condition of the iron trade in this country, and especially of all classes of persons concerned in the production and manufacture of iron, it is his decided opinion, that, if rolled and hammered iron were admitted into the United States at a moderate duty, or duty free, it would be greatly for the advantage of all the parties concerned. In support of this opinion, the witness again referred to the reasoning contained in the petition, of which he entirely approved. He stated, also, among other things, that he had no doubt that a low duty on the raw material would so much increase the consumption of iron in this country, as to compensate the owners of mines, by the increased demand, for any diminution which might take place in the price; that, though old, worn out, and worthless mines, which may be now worked, in consequence of the high duty, might be abandoned, the rich mines of Pennsylvania and elsewhere could be worked with increased activity and profit. Witness said he knew that a good mine could be worked profitably in America without protection, from the fact that mines were worked at Trois Rivieres, in Canada, where the duty on foreign iron was only five per cent. The witness further stated, that, from a calculation founded on the Treasury reports, it appears that 47,000 tons of hardware were now annually imported into this country; and he had no doubt that, if the raw material was cheaper, 33,000 tons out of these 47,000 would be manufactured in this country, which would greatly increase the number of workers in iron, and give a new impulse to the industry of the country. In answer to a question submitted by one of the committee, [Mr. DICKERSON,] whether an additional duty of one cent per pound on all manufactures of iron would not remedy

the evils of which the blacksmiths complained in their petition, the witness said that it unquestionably would not; that the only effect of such a duty would be to lessen the consumption of iron, and, indeed, to drive it out of use, wherever hemp, or wood, or any other substitute could be found for it. The witness here stated that he considered the existing laws of the United States, in relation to iron, imposing, as they do, a duty of from 159 to 280 per cent. on the raw material, and 25 per cent. on the manufactured article, to be exactly of the same character as if Great Britain should impose a duty of from 150 to 280 per cent. on raw cotton, and 25 per cent. on cotton manufactures. Great Britain encouraged her manufactures, by admitting the raw material at a low duty, or duty free; and, to encourage our mechanics, we should do the same.

The witness believes that ninety-nine hundredths of the hardware imported into this country is made of English common iron, such as he exhibited a specimen of in a rod twisted, when cold, by himself, into a knot, which he considers as establishing its good quality. Such iron cost in Wales £5 5s. cash, cargo price. It is stated in the Treasury report that 3,000 tons of this iron are annually imported into this country. The witness here presented a specimen of hoop iron, punched, and said that the whole cost of this article, duty included, would be about \$37 a ton, but the duty alone and the raw material would be \$78 40; the whole cost would be from \$120 to \$125. Understands, however, that the Treasury Department has decided that, to constitute this article manufactured iron, the hoops must be riveted; he thinks this must be wrong: for if the increased labor of the foreign workman is to have the effect of lessening the duty, this would be tantamount to the prohibition of any American labor being bestowed on such articles, which must certainly be contrary to the intent of the law. The witness proceeded to give another reason why an increase of the present duty on manufactured iron could not answer the purpose of the blacksmiths, that nothing short of a due proportion between the duty on the raw material and the manufactured article would answer any purpose; and as the duty on the raw material was now from 159 to 280 per cent., an equivalent duty could not possibly be imposed on hardware; and if it were, the articles so taxed could not be generally used. The present duty on rolled iron was \$37 a ton. To impose an equivalent duty on the manufactured article, so as to put the blacksmiths on a footing with the iron masters, would require three times that amount, say \$111, or 159 per cent. These duties, however, never can be equalized, while one is an ad valorem and the other a specific duty; both ought to be an ad valorem duty—a low duty, and that of equal amount.

To show the effect of high and low duties on the consumption of iron, and on the number and skill of the workmen employed in the manufacture, the witness referred to a French work, entitled *An Inquiry into the Mines*, reviewed in the *London Foreign Quarterly Review* for October, 1830. He there finds that the quantity of iron annually consumed in France is 173,000 tons. In England, the consumption of cast iron alone is 700,000 tons; the average consumption in proportion to population is as 13 to 1; and in the same ratio will be found the skill of the mechanics. The witness has seen a lady in France holding up the foot of a horse, while the blacksmith (if he could be so called) was hammering on the shoe. Witness attributes both the small quantity of iron consumed in France, and the want of skill in the manufacture, to the high duty on the raw material, which is three or four times as high in France as in England. Thinks, if the duty on iron were reduced in this country, the consumption of chain cables would be doubled. In France, wood is one of the great substitutes for iron. Hemp is another. Leather is also much used, and stone, (as for bridges.) French ships use hemp cables, while English ships not only use chain ca-

bles, but use iron all over the rigging, to an extent unknown in American vessels. Witness believes there has been some improvement in the rolling mills in this country of late years. These mills are not generally owned by the iron masters. These mills would be worked more profitably, if the raw iron could be bought cheaper. The witness thinks, that, on the whole, as much money is paid for the manufacture of iron in England as in this country. He made a calculation on chains, in Liverpool, six years ago, and found that witness paid here one dollar for work, which cost there seventy-five cents. In puddling iron, 8s. a ton is the present price in England. Iron is generally made into bars by two distinct classes of persons. In some parts of England, a vein of iron ore, four inches thick, will be worked for several hundred feet; it yields from 27½ to 33½ per cent. His information on this point is derived from books. If the duty on iron was reduced as prayed for by the blacksmiths in their petition, the American workers in iron would enter into competition with the foreign manufacturers, and he has no doubt that employment would be given to 50,000 mechanics beyond those now employed in the United States; and this in addition to the multitude of persons who would be employed by or through them, such as coal diggers, laborers, farmers, &c. &c. Thinks cut and hammered nails would then be furnished cheaper than at present. If witness could get his iron free of duty, he would contract to furnish cut nails at 3½ cents per lb.; they now sell for 5½. He could make wrought nails at an amount less by the duty, that is to say, at five cents less than the present price. He made lately for a railroad half a ton of such nails at 11 cents; they were made mostly of Juniata iron, and could have been furnished at \$4 20 per cwt. less, but for the duty on iron. These nails would have been imported, if they could have been got from England in time. In all Philadelphia, he knows of but two hands now employed in making wrought nails. The witness is confident if iron was admitted at a low duty, or duty free, there would be a more abundant supply of the article, both in peace and in war, and the capacity of the country to furnish articles of iron of every description, from cannon down to nails, would be greatly increased. If there are now a hundred thousand persons, as he believes, employed in the blacksmith's business in this country, there could be added at least 50,000 to the number; there would be an increased demand for iron of every description; the good American mines would yield much larger quantities; and most of the hardware now made in England would be manufactured in this country. There is a much larger number of persons interested in the manufacture of iron than in working the mines. From the testimony of the iron masters before the Committee on Manufactures of the House of Representatives, in 1828, (see report No. 115, p. 37,) it appears that but eleven thousand persons in all were employed in preparing and making bar iron; and this includes wood choppers, coal burners, &c. &c., and of this number three-fifths are employed in the country, entirely out of the reach of competition. But, of this number, not more than 3,000 are mechanics; and to give these people a bounty, 100,000 blacksmiths are oppressed, and the addition of 50,000 to their number prevented, which would add immensely to the power and resources of the country, in peace and in war. The witness says he has travelled extensively, and seen much of the world, but he has never seen any blacksmiths so poor, or carrying on a less prosperous business, than those of the United States at this time, which is owing, as he confidently believes, to the high duty which they are compelled to pay on iron, which not only increases the price of the raw material in which they work, but lessens the demand for their labor. When in the island of Guernsey, the witness, by the labor of his two hands, realized £500 sterling by the time he was 22 years of age. Thinks this could not now be done in the

United States. Witness knows of an Englishman, whose name he thinks was Wood, who came to this country last spring, for the purpose, as he understood, of establishing a manufacture of iron; but, after examining the state of things, he went back, having found, that, under the present high duty on the raw material, Great Britain was the place for making iron, and manufacturing hardware for the United States. That gentleman had travelled through the country, and estimated the quantity of iron made in the United States at 35,000 tons.

The witness has understood that Mark Richards has lately imported a quantity of hoop iron with holes, the duty on which as iron, "in part manufactured," would be one thousand dollars less than the iron of which the hoops are made. Mr. Richards has declared, that, rather than pay the duty on hoops as raw iron, he will re-export them. It would be a bounty to foreign labor if the duty should be reduced according to the quantity of labor bestowed upon the article. Hoop iron has generally been imported in a raw state. In the duties which have heretofore been imposed on iron, the iron masters have only considered themselves, and have regarded the mechanics no more than if they were nonentities. Boiler iron is made principally in Wales, Staffordshire, and Scotland. Witness has formerly imported many tons of stovepipes, by which he saved sixty dollars a ton. He considers the law clear; and, if a higher duty had been imposed, he would have resisted it. Has not imported any stovepipes for the last ten years. The witness here explained why boiler plates ought to be imported duty free, or at a very low duty. Boiler plates are now generally made of American iron, which he thinks render them weaker than the English boiler plates, in consequence of the former being more shelly, or liable to scale off. When boiler plates are imported from England, in consequence of the high duty of seventy-eight dollars a ton, thinner plates are imported than are used for similar purposes in England. The consequence in either case is a greater liability to explosion in steamboats and steam engines, to the great loss of property and of life, and the diminution of safety and comfort in travelling. Since 1817, there has not been a single instance of the bursting of a steamboat in England, and not one on the St. Lawrence, while in this country, since the opening of navigation in the year 1830, there have been no less than fifteen or sixteen. If steam engines could be procured cheaper in this country, their number would be greatly increased, and they would be applied to a variety of uses from which they are now excluded in various branches of manufactures, and especially of iron. Witness would himself have had one in the establishment under his care, if the duty had been less, and many others in Philadelphia would have done the same. The witness, and those who are acting with him, come here, not to ask a favor, but sheer justice; and, while looking to their own interests, they are equally mindful of the interests of the whole country.

JOHN SARCHET.

Subscribed and affirmed to before the subscriber, a justice of the peace of Washington county, District of Columbia, February 7, 1831.

ROBERT CLARKE.

NOTE by Mr. SARCHET.

I find by the books of James Drinker, of Philadelphia, that he exported iron to England in the years 1771, '2, and '3; that bar iron is charged in the said books at twenty shillings per cwt., Pennsylvania currency, or \$2 66 2-3 cents, equal to \$53 33 1-3 cents per ton; that the same iron sold at £15 10s. sterling per ton in Bristol, England; that pig iron is invoiced at \$22 and \$22 66 2-3 cents per ton; that best common flour sold, according to said books, at \$2 35 3/4 cents per cwt.; superfine at \$3 13 1/4 cents per cwt.; that wheat sold at one dollar per bushel by the quantity;

Indian corn at fifty-one and fifty-two cents per bushel; from which I conclude that labor rated at about the same as at this time. An extract from the said books is now handed to the chairman of the select committee of the Senate.

#### INCREASE OF PAY OF CAPTAINS IN THE NAVY OF THE UNITED STATES.

Mr. DORSEY, from the Committee on Naval Affairs, to whom was referred so much of the President's message as relates to the navy, made the following report, (on so much thereof as recommends an increase of the navy pay:)

That, in the infancy of the Government, when the national treasury was oppressed with a heavy debt, and the resources of our country for the purposes of national revenue had not been fully developed, statesmen of unquestionable patriotism, and eminent political sagacity, resisted the policy of creating a permanent national navy, under a belief that the expenses thereof would be too oppressive on the people, and who also feared that our vessels of war could not contend, with any expectation of conquest, with the old navies of Europe, and predicted, that, whenever they should put to sea in time of war, they were destined to flatter the pride, and to increase the fleets, of our enemies.

The depredations committed on our commerce, and the wrongs inflicted on our seamen, by the corsairs of Algiers, at length induced Congress, in 1794, to provide for the building of a few vessels of war.

To raise the funds necessary for this purpose, an additional duty was laid on the importation of certain enumerated articles, and a loan was authorized, reimbursable from the proceeds of these duties. In 1797 and 1798, the cruisers of France entered within our jurisdictional limits, captured the vessels of her enemy, and committed spoiliations on our commerce.

To repress these lawless acts of aggression, Congress provided for a further increase of our navy. The pressure on the national revenue had not then been lessened, neither had those doubts and fears as to the policy of creating a permanent navy subsided. These acts did not look to such an establishment. They owed their origin to the immediate necessities of the nation for maritime defence, and were to be inoperative if peace should be restored.

This indisposition towards a permanent navy, the temporary character of the service, and the necessity for the immediate addition to the public burdens which this increase of our naval armament imposed, must have induced Congress to have graduated the navy pay as low as practicable consistently with the public service. No certain and regular addition has since been made to it. The brilliant achievements of the navy during the late war produced a revolution in the public opinion in its favor. The nation became convinced of the expediency of fostering its growth, and that the pay of its gallant officers was too small; and Congress, by the act of 1815, vested in the President a discretionary power of enlarging it twenty-five per cent., whenever the nature of the service in which the navy should be employed, should, in his judgment, require it.

At the close of the late war the public debt had been much increased. An anxiety for its prompt reduction pervaded the community.

A system of general retrenchment was adopted by Congress, and the discretionary power vested in the President by the act of 1815 was withdrawn by the act of February, 1817.

The committee submit, herewith, a tabular statement, showing the navy pay from 1794 until the present time.

Congress, after many appeals to its munificence and justice, expressed its conviction that the pay of lieutenants and surgeons in the navy was inadequate, and, by the acts of 1818 and 1828, increased theirs.

The committee have presented this historical account of the rise, progress, and present state of the navy pay, to aid Congress in its deliberations on the question now presented. Do justice and sound policy require an increase of the pay of captains and masters commandant?

The late and present Chief Magistrate (notwithstanding his solicitude to prevent any diversion of the revenue from the early extinguishment of the national debt) have, in their annual communications, earnestly recommended to Congress to increase the navy pay.

The committee mean not to advocate the degrading doctrine, that the recommendations of the Chief Magistrate ought, without inquiry, to be adopted; but it must be conceded that his opinion, communicated to Congress on his high responsibility, as to the expediency of measures within his own immediate and personal knowledge and observation, is entitled to very high consideration.

His military life eminently qualifies him to judge as to the expenses necessarily incurred by officers in either branch of the public defence.

Distributive justice requires that the pay and emoluments of officers of equal grade, rendering like services, discharging like duties, and exposed to like dangers, should approximate. A legislation which neglects this great fundamental principle of national justice, engenders repinings, dissatisfaction, and jealousies. It cannot but be regretted that the laws of Congress furnish, in relation to the army and navy, most glaring departures from this harmonizing principle. The relative rank of the officers of the army and navy is graduated thus:

A captain under five years, whose pay is one thousand nine hundred and thirty dollars, ranks with a lieutenant colonel, who receives two thousand three hundred and seventy-two dollars and thirty-two cents.

A captain over five years, and under ten, ranks with a colonel, who receives two thousand nine hundred and forty-one dollars and thirty-two cents.

A captain over ten years, and under fifteen, ranks with a brigadier general, who receives four thousand four hundred and twenty-two dollars and forty-nine cents.

A captain over fifteen years ranks with a major general, who receives six thousand five hundred and twelve dollars and sixty-four cents.

A master commandant, whose pay is one thousand one hundred and seventy-six dollars, ranks with a major, who receives two thousand one hundred and six dollars and thirty-two cents.

The land officer is selected in his youth, placed under the control of professors eminent for their moral worth and scientific attainments, and paid by the Government. After remaining four years in this state of pupilage and probation, he is called into the army, and in a very short time appointed to services, carrying with them pay and emoluments greater than those of a sea officer who may have spent twenty years in the service.

No system of instruction at the public expense has been adopted for the navy service.

The midshipman may devote any portion of his time which can be spared from his naval duties, to obtain instruction in the line of his profession, and at his own expense.

This is not the only inequality. The various grades of rank in the army give room for promotion. It is not so with the naval service. The captain of to-day, notwithstanding he may remain in the public service during a long life, must die a captain, as Congress has not yet deemed it expedient to establish a higher rank in the naval service.

But the inequality does not stop here; the army offi-

cer is rewarded for ten years of meritorious services with a brevet rank, conferring honor, and bringing with it an increase of pay.

The officer of the navy receives from his country no such flattering mark of distinction, although he may have, from the vigor of youth to the decrepitude of old age, spent his life without intermission in the exercise of his profession, with honor to himself, and with profit and glory to his country, as there is no brevet rank established for the navy.

The committee have deemed it proper to collect information from official sources, as to the relative number of promotions which have taken place in the army and navy since 1816, and also the number of brevet rank which has been granted from that period.

While Congress has thus made such honorable and provident provision for the gallant officers of the army, those of the navy (who have, with such consummate valor, admirable skill, and noble daring, sustained the honor of our infant flag against every foe, and who, at the proudest period of the naval glory of England, dispelled, by successive victories, that confidence in her naval invincibility, which a series of brilliant and exterminating triumphs over the combined navies of Europe had produced,) have experienced from Congress a mortifying indifference to every appeal and commendation made to it, to approximate their pay to that of the army.

Is there any thing in the character of the two services which vindicates this disparity in emoluments and honor, and this indifference to the claims of the navy officers? Does the army service require a higher order of intellect, or greater professional attainments? Is it more exposed to danger, or attended with greater deprivations? Does it impose higher responsibilities? or have the present army incumbents a greater claim on the justice, gratitude, and munificence of their country, than those of the navy?

The committee have deemed it expedient to procure a list of the deaths in the navy since 1816. It presents a picture of mortality at which (when contrasted with the number of those employed) the naval officer looks with the most fearful and agonizing forebodings, whenever he is ordered to cruise under a tropical sun, more fraught with danger to human life than even the carnage of battle; a risk from which the army officer is exempted, as he is most generally employed at salubrious stations. Great as the disparity between these two branches of our national defence is thus demonstrated to be, that between the civil list and navy is still more glaring.

The committee exhibit herewith a statement of the progressive and present pay of the civil list, from which it appears that the clerk who transcribes the executive orders to the naval officer, and who gives not to his official duties more than six hours in the day, enjoying all the comforts of domestic life, receives from his Government a higher pay than the naval officer, who, leaving his home, and while guarding with parental solicitude the lives of his crew, exposes his own in every climate; protecting our commerce, vindicating our honor, regulating, upon a high and fearful responsibility, our intercourse with foreign nations, and exposing himself in battle whenever his country calls.

This inequality in our legislation does not stop even here. The present navy pay was graduated in 1799. The pay of all the officers of the Government on the civil list established before them, has been increased.

Either the enhanced price of the necessities of life, the changed condition of society, or the increased resources of the Government, giving rise to more liberal notions as to the value of official services, must have conduced to this increase of compensation.

The navy officers have a right to expect, upon every principle of justice, that the same causes should be productive of the like results in relation to them.



The original sphere of action of no branch of the public service has been so enlarged as that of the navy. The pay was fixed at a period when the operations of the navy were limited principally to the duty of convoy. Its most enthusiastic friends, then, never anticipated that our naval flag would visit every part of the habitable globe, waving over ships of war which would attract attention, excite admiration, and be adopted as models for imitation by the principal maritime Powers of Europe.

This event, so flattering to our national pride, has been realized. This attractive condition of our navy, and its expanded intercourse, impose upon its officers the most distressing and pecuniary expenditures.

Our national character, and the obligations of society, constrain them to reciprocate the courtesies which are extended to them, and which they could not decline without incurring the imputations of mercenary motives.

The naval officer, when afloat, requires two separate establishments. His family must be housed, clothed, and fed, and his children educated. His own table must be supplied from foreign markets, and at the most exorbitant prices. The efficiency and harmony of the service require that he should extend to the officers of the ship, and of the squadron, the hospitality of his table. It appears to the committee, that every observer of domestic expenditure, of the present state of society, and of our naval character and operations, must be convinced that the navy pay is not sufficient for these double establishments. So oppressive have they been, that, in the general, there has been no saving of money among our naval officers. There are very few of them who are not constrained, when they go to sea, to leave with their families allotment tickets of their monthly pay. Naval officers, of admitted prudence and economy, have returned from a long cruise without saving a dollar of their pay. While the simplicity of our republican institutions requires that there shall be no prodigal expenditure of public money to gratify the vanity of official stations, a just and provident policy requires that those who devote themselves to the public service, and their lives to danger for the public good, should receive from the public treasury the means of supporting their families, and those expenses which the stations to which they are called imperiously impose, and from which they cannot shrink without degradation of national and individual character.

The committee have procured a statement of the navy pay of some of the European nations; and it is submitted, so that Congress may contrast theirs with ours.

Immediately after the late European war, in a time of profound peace, and when their national debt was the most oppressive, the people of England loudly murmured against the disparity of pay between their land and naval forces, and remonstrated against the lowness of the navy pay. These murmurings and remonstrances were not disregarded. An order of council, in 1817, passed, approximating the navy pay to that of the army, and was received with general satisfaction.

The committee verily believe that a similar approximation of pay would be received by the American people, in this moment of national wealth, with high approbation. A high-minded and magnanimous people are always pleased at seeing the vindicators of their rights receiving from their Government adequate remuneration.

Great Britain graduates her pay according to the ratings of her ships.

This is in consonance with the frame of her Government, which recognises the necessity of sustaining the Executive Department by an increase of its patronage. Such a scale of graduation ought not, therefore, to be incorporated into the naval code of this country, because of that very tendency to enlarge the sphere of Executive patronage.

The experience of the last war has produced a univer-

sal opinion, that, in all future wars with European Powers, our national honor is to be sustained, that our rights are to be vindicated, and our homes are to be protected, by a navy. Under this conviction, millions of the public money have been expended in providing for the permanent increase of the navy.

At the present time, when Europe is convulsed by revolution, portending an appeal to arms, and which may eventually drive us from our pacific relations, it is all-important that a fair compensation should tranquillize the mind of the navy officer, reconcile him to the service, and render it desirable to others.

Under the influence of the preceding considerations, the committee are of opinion that a just and enlightened policy requires that the pay of the captains and masters commandant should be increased.

The committee have forbore to interfere with that of lieutenants and surgeons, inasmuch as they have no reason to believe that any recent circumstances require any legislation in relation to their pay.

The committee find, that, from the first organization of the navy, a practice has prevailed in the Navy Department of allowing to the navy officers emoluments contingent on services performed by them, supposed to be not strictly within the range of their naval duties.

From the nature of the service, it was impracticable to foresee and to provide by legislation for all the duties which the officer might be called on to perform.

Much, therefore, was left for Executive discretion.

These contingent emoluments have been productive of much embarrassment in their adjustment to the head of the department, and of much jealousy and discontent among the officers; and, as experience has now pointed out the general character of these duties, the spirit of the Government requires that official discretion should be circumscribed by legislative provision.

The Government has quarters for the commandant at all of our navy stations except Baltimore. The committee have, therefore, made provision for one at that place. The cabin furniture, except fixtures, for our ships of war, has heretofore been furnished by the commander, and an allowance has been made to him, graduated according to the class of the ship. The committee think it advisable to let the Government exclusively furnish the cabin.

The committee have, in accordance with these views, reported a bill providing for the increase of the pay of captains and masters commandant, graduating the same upon the principle of assimilated rank, as recommended by the Secretary of the Navy.

#### *A statement of assimilated rank in the present state of the navy.*

- There are in the navy thirty-seven captains,  
17 of whom have been in commission above fifteen years, and rank with a major general.  
3 have been in commission over ten and under fifteen years, and rank with a brigadier general.  
8 have been in commission under ten and over five years, and rank with a colonel.  
9 have been in commission under five years, and rank with a lieutenant colonel.

- 37 There are in the navy thirty-three masters commandant, who rank with a major.

#### LANDS TO OFFICERS IN THE LATE WAR.

HOUSE OF REPRESENTATIVES, MARCH 1, 1831.

MR. DUNCAN, from the Committee on the Public Lands, to whom have been referred sundry memorials from the Legislatures of States, and of officers of the army of

the United States in the late war with Great Britain, and who were disbanded at its termination, praying that lands may be granted to officers who served in that war, and were disbanded at its termination, and to the heirs of those who were killed in battle, or died in service, reported:

That they have given to the subject that serious and deliberate attention which its importance to the memorialists, in a pecuniary point of view, and to the nation, in the effects which its decision may have in aftertimes.

Before proceeding to pronounce the result of their deliberations, the committee will take a view of the proceedings which have already been had by the House upon this subject.

At the close of the war with Great Britain, a bill was reported to the House, fixing the military peace establishment of the United States, and for disbanding a portion of that gallant army which had so successfully carried the country through that war. The sixth section of that bill contained the following clause:

"That there shall, moreover, be allowed and granted to every such officer, [meaning those who should be disbanded,] in consideration of services during the late war, the following donations in land, viz. to a major general, 2,560 acres; to a brigadier general, 1,920 acres; to each colonel and lieutenant colonel, 1,280 acres; to each major, 960 acres; to each captain, 640 acres; to each subaltern, 480; and to the representatives of such officers as shall have fallen, or died in service, during the late war, the like number of acres, according to the rank they held, respectively, at the time of their decease, to be designated, surveyed, and laid off at the public expense."

On the 27th of February, 1815, a few days before the termination of the session, a motion was made by Mr. Cannon, a member of the House of Representatives from the State of Tennessee, to strike out this portion of the bill. The question was taken by ayes and noes, and the motion prevailed by a majority of only four votes.

On the next day, the 29th February, 1815, a motion was made by Mr. Alston to reconsider the vote upon striking out the provision. The vote on reconsideration was also taken by ayes and noes, and prevailed by a majority of fourteen votes.

The question was then again put, on striking out the clause, and decided against it. Upon the second vote the ayes and noes were not taken; and the committee have learned that the opposition to it had been almost wholly, if not entirely, withdrawn in the House.

In this form the bill went to the Senate of the United States; in which body it was amended, by increasing the amount of force to be retained from six thousand to fifteen thousand men, and by striking out the bounty land provision.

On the 2d of March, the House of Representatives disagreed to the amendments of the Senate. On the same day, the Senate insisted on their amendments. The House also insisted: a conference was proposed, and agreed to by the House. The conferees reported a compromise, that the Senate should agree to reduce the army to ten thousand men, and that the House should abandon that portion of the bill which provided grants of land to the disbanded officers.

On the 3d of March, the last day of the session, and almost at its last hour, the compromise recommended by the conferees came up for consideration; and the question to agree to that portion of it which abandoned grants of land to the officers was taken by ayes and noes, and carried by a bare majority of two votes—ayes 57, noes 55. That part of the compromise which related to the number of men to be retained in service, was carried by a very large majority—70 to 38.

Thus, it will be perceived that these gallant men, at the only period when their claims came fairly before the House for decision, lost their land by only two votes, and that,

too, in consequence of a compromise between the two Houses upon the subject of the quantum of force to be retained in the service.

At the succeeding session of Congress, (the 1st of the 14th,) the subject was again brought up; and on the 13th of December, 1816, a bill was reported to the House by its Committee on Military Affairs, authorizing grants of land to the disbanded officers of the late war, and the heirs and representatives of those who were killed or died in service.

This bill was permitted to remain without any action or decision thereon, until the Congress in which it was reported expired.

On the 9th December, 1817, the following resolution was introduced into the House:

*Resolved*, That it is expedient by law for the disbanded and deranged officers of the army of the United States who served in the late war against Great Britain, by donations in land, viz. to a major general 1,280 acres, a brigadier general 1,120 acres, a colonel and lieutenant colonel 960 acres each, a major 800 acres, a captain 640 acres, and subalterns 480 acres.

And no further action took place during the session.

Thus the matter remained until the first session of the nineteenth Congress, when it was again brought before the House by a simultaneous effort of the officers themselves. Their memorials were referred to a select committee, consisting of Mr. Cook, of Illinois, Mr. Garnsey, of New York, Mr. Swan, of New Jersey, Mr. Bailey, of Massachusetts, and Mr. Metcalfe, of Kentucky.

This committee, on the 17th of March, 1826, made a favorable report, which is herein embodied, viz.

"The select committee to which was referred the petition of sundry officers of the army of the late war, praying a grant of land, in consideration of their sacrifices and services, report:

"That it is deemed by the committee but fair and reasonable that the merits of their claim should be duly investigated and considered by the House. Their severe and arduous services, in the momentous struggle in which they were engaged, entitles their application to the most liberal consideration that justice and sound policy will allow. With a view, therefore, to bring the subject fairly before the House, and that it may act on the question unincumbered by details, the committee propose to the House the following resolution:

*Resolved*, That it is expedient to make provision, by law, for granting to each of the officers of the army, who served during the late war, a quantity of land, according to their rank, as a remuneration for their sacrifices, sufferings, and faithful services."

The press of business usually attendant on the latter portion of a session of Congress precluded the possibility of a deliberate consideration of this report. It does not appear from the journals of the House that it ever came up for final decision.

At three subsequent sessions of Congress, viz. the second of the nineteenth, the first of the twentieth, and the first of the twenty-first, the subject was again referred to committees; but the multiplicity of more pressing or immediate concerns having so exclusively engrossed their attention as to preclude the possibility of devoting that attention to this subject which its magnitude and importance required, it passed off until the present time.

Thus, this subject has, with little intermission, been before Congress from the termination of the late war with Great Britain to the present time.

In the commencement of the war which terminated in establishing the independence of our country, pay and subsistence were the only rewards held out by the Government to their officers and soldiers. To their own exertions were they to be indebted for that greater and more

inestimable reward—their own liberty, and that of their posterity. Yet, notwithstanding the great and inappreciable value of the prize which was to be won or lost, notwithstanding the overflowing patriotism of the country, the love of freedom inherent in man, and the desire to win it for himself, and to transmit it to his children, as well as the monthly pay promised the officers by the Government, it was found necessary, in order to stimulate the zeal and patriotism, enliven the drooping spirits of the officers of that army, and to induce them to continue in the army, to make them promises of large grants of land; accordingly, Congress, as early as the 16th of September, 1776, passed a resolve that the officers and soldiers of its army should receive grants of land. The salutary consequences, and the high importance of this promise, were seen almost as soon as it was adopted. Many highly meritorious officers, whose pecuniary embarrassments, or the situation of whose families, seemed to render it their duty to retire from the public service to provide for their families, buoyed up with the pleasing anticipation of this ultimate source of profit, abandoned their intentions to retire, and continued in the service till the final triumph of the cause in which they had acquired a consideration of no mean importance in any hotly contested war. But, in order the more clearly to show the sense entertained by the country of the importance of the services of the officers of the revolutionary army, several of the States of the Union, within whose boundaries or jurisdiction there were vacant and unappropriated lands, notwithstanding that the General Congress had already made liberal promises, following the generous impulse thus given, did, from time to time, provide liberal bounties in land for their respective State lines in the continental service.

Before the commencement of the late war with Great Britain, but after it was perceived that a controversy with that nation was no longer to be avoided, without a sacrifice of the independence which had been so nobly won by the army of the revolution, Congress, aware of the vast benefits which had resulted in the resolution from the promise of land to the soldiers, adopted the very same policy of promising grants of land to the privates.

By the act of December 24th, 1811, the soldiers, whose enlistment that act authorized, received one hundred and sixty acres; and subsequently, whilst the war which soon after followed was raging in its utmost fury, and to encourage enlistments, the quantum was increased to three hundred and twenty acres. It was in the army to which bounties were thus given to privates, that the memorialists were officers; and gallant officers the history of that war amply proves they were. If the soldiers of that army, and even the heirs of those who volunteered their services for a given and short period, but who were killed or died in service, had such large recognised claims on the bounty of the nation, it is not, in the opinion of the committee, easily to be perceived why their officers, who, by toil, industry, and sleepless nights, ministered to their wants, watched over their health and safety, drilled them into efficiency, brought them into the field, and fought at their head, have not claims equally strong.

Further, to show the inequality which appeared to have existed in the legislation of that day, a bounty of land was promised to the heirs of volunteers, including their officers, who might be killed or die in service; and regular bounties in land were promised to volunteers from Canada, including, specially, the officers of every grade, from a colonel to a subaltern. Many of these volunteer officers, both native and Canadian, fought side by side with the memorialists against the common enemy; and if, by the fortune of war, one of each description sealed his devotion to his country on the battle field by his life, the family of the volunteer would be rewarded by a grant of a large and valuable tract of public domain, to be an asylum and a home for the widow and the children of a gallant father,

while the widow and the children of the officer of the regular army, whose claims upon his country, by every process of reasoning, must be admitted to be at least as strong as those of any volunteer of any description whatever, had to bear their loss, with no other reward but the sympathy of their friends, and the legacy of his brave and honorable name. But this is not all. There have been instances where officers have lost their lives in battle, or in the discharge of perilous duties, and whose papers at the same time were lost or destroyed, in which their heirs, instead of receiving a reward from the common stock for their irreparable loss, have been called upon to refund money to the public—moneys placed in the hands of their father for distribution, of the faithful application of which, in consequence of the loss of papers, no certain evidence could be produced; and, in the recovery of this doubtful debt, the home which had been left to the fatherless children has been sold from them, and they have been turned penniless upon the earth. This is no imaginary picture: the fact has occurred in more cases than one, and the memorials on the files of the House, it is believed, will attest it.

But it was not alone to the army of the revolution, the soldiers of the late war with Great Britain, and Canadian volunteers, that the policy of making grants of land has been confined; the principle has extended much further. On the 14th of August, 1776, land was promised to all those who would leave the service of England, and become residents of the States, without even requiring them to enter the service of the country. On the 23d of April, 1813, large grants of land were promised to subjects of the King of England who would abandon his provinces of Canada and Nova Scotia, and take refuge within the United States; and ample provision has been made, and at different times, recently, too, for giving full and complete effect to these promises.

In referring to these grants to native volunteers and Canadian volunteers in the late war, and to deserters and refugees in the war of the revolution, the committee do not wish to be understood as in any manner condemning the policy which dictated them; on the contrary, they believe it to have been the result of a wise forecast of the future. They have referred to them as an illustration of the singularity of the fact that these descriptions of persons should have been so liberally provided for, while the officers of the regular army, upon whom devolved the great burden of war, should be turned off, after having gloriously accomplished their work, with nothing but scars, broken constitutions, and, in many cases, ruined fortunes. It is true, they had the consolation knowing they had gloriously sustained the honor and the independence of their country.

The memorialists have themselves eloquently remarked that they have sought in vain for the reasons which should deprive the officers of the second war of independence of the munificence which was extended to those of the first; for although, as a body, they may not have suffered so much or so long, yet they exhibited the same valor and love of liberty. They did not, like the refugees, flee the realms of oppression in search of liberty in a foreign land; they protected the trees their fathers planted at home; and, as in the case of the Canadian volunteers, who abandoned the country of their enemy and joined a foreign standard, and then in company with the memorialists fought and foiled the enemy on his own soil, it is hoped that Congress, who have been so munificent to one, will not remain indifferent to the just claims of the other.

Contrast the case of the officers of the army with that of the officers of the navy in the war, and how great is the difference between them, and how exceedingly disadvantageous to the former. By the regulations of the naval service, the officers and men participated in every capture, great or small, which they might make. If the captured was less in force than the captor, half the amount

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was divided among the captors; if the opposing forces were equal, or if the captured were superior to the captor, the whole value became the property of the captors. By these wise and salutary regulations, an additional impulse was given to the ardent courage and daring enterprise of our naval officers and seamen. It is believed that almost every officer and seaman in that service realized a much larger sum in prize money than is the value of the land which it has been proposed to give to the officers of the army of correlative rank who served in the same war.

How stands the case of the army? If a battle be won, a fortress stormed, a convoy of provisions or munitions of war be intercepted or captured, the soldier has nothing, the officer has nothing, all belongs to the public; no division of spoil here, as in the other great arm of national defence. It is a well known fact, that, while many of our gallant naval heroes came out of the war with splendid fortunes, won by their valor and good luck, not a single officer of the army retired from that service a whit the better in worldly goods; although he may have fought as desperately, and been as thickly covered with the laurels of victory, as his brothers of the navy.

It would, therefore, in this view of the subject, be but an act of common justice to make up this manifest inequality between the officers of the army and the navy, by a grant of land to the former.

The late war with Great Britain has been emphatically called the second war of independence; it has been so termed in papers, public, private, and official; it has been so termed in speeches, in Congress and out of Congress; it has been so considered at home and abroad; it has been so considered by statesmen and citizens, in and out of office. Why, then, is it not proper and expedient that a portion at least of the same measure of reward which was meted out to the gallant and glorious band of the revolution, should also be meted out to those who, in a later period, fought so valiantly and so gloriously for the preservation and perpetuation of the blessings won in the first contest? If it is improper or inexpedient to do so, your committee are unable to perceive it. The committee have here used the phrase "a portion of the measure of reward meted out to the gallant band of the revolution."

The reason for using that phrase, is to be understood in reference to the many acts of munificence to the officers of that army, which have not been, nor is it contemplated ever will be, extended to the officers of the late army. Witness the half pay for life granted to the survivors; the half pay for seven years granted to the widows and orphans of those who were killed or died in service; the subsequent commutation of half pay for life; the full pay for life granted to the survivors by the act of May, 1828; and the bill passed by the House at the present session of Congress, extending the provisions of former acts to all those who by any technicality in said acts had not been brought within their provisions; also, over the militia; to say nothing of the vast benefits conferred by acts of 1818 and 1820.

Surely, when all these grants to the heroes of the revolution are considered, it cannot be deemed unreasonable to grant the small boon of a tract of waste, unappropriated land to the heroes of the late war.

The more clearly to illustrate the claims of the memorialists to some further compensation for their services, and to show the inequality which has been made to exist between the officers of the late army and the officers of the present army, the committee herewith present an exhibit, showing the difference between the monthly and annual pay and emoluments of the officers of the two armies respectively, of correlative rank, and, also, showing the total amount which that monthly difference would give in three years.

		Difference per month between the pay of officers of the late and present army.	Difference in three years.
Colonel,	- - -	\$69 50	\$2,502 00
Lieutenant Colonel,	- - -	73 98	2,663 28
Major,	- - -	67 81	2,441 16
Captain,	- - -	64 66½	2,227 94
First Lieutenant,	- - -	54 35	1,956 60
Second Lieutenant,	- - -	54 35	1,956 60

This difference is owing to an increase of rations, and contingent allowances made to the present army, and properly made, in the opinion of the committee, and is only mentioned for the purpose of showing that the officers in question were not fully compensated.

The committee have not gone through the whole descriptive list of officers of an army; nor have they taken into the account those of the staff who hold commissions in the line. The grades they have omitted bear the same relative portion of difference in pay, &c. as those they have enumerated. With respect to the staff taken from the line, the difference is still greater against the late army, as the additional pay and emoluments of the staff is not only greater now than in 1814, but the numbers of that description of officers are also much greater, in proportion to the strength of the army, than it was during the late war, thereby greatly multiplying the chances of increase of pay to the younger officers of the present army.

From this relative view of the pay and emoluments of officers of the army of 1814, and the army of 1831, it would appear that the difference against the officers of the late war, for the average period of three years, is more than double the value of the land which it has been proposed to grant them; and, as it respects the inferior officers, it is more than quadrupled. Thus, on the score of evenhanded and common justice, it would seem but fair that their claim should be granted, were there no striking or peculiar circumstances of difference in the time or manner of their employments. That difference is too great, in every respect, to be passed over without suggestion. In the first place, it is a fact well known that every species of provision and clothing was at least fifty per cent. higher during the late war than at the present period; a fact, which your committee humbly conceive, of itself, sufficient to induce Congress to grant the prayer of the memorialists. The nature of the employment of the officers of the two periods, if also considered, would entitle those in a state of active and desperate warfare with a brave and wily enemy, and who were at the same time constantly subjected to every species of privation and suffering, and to all the dangers, casualties, and vicissitudes of war, to a preference over those who are only engaged in the peace occupations of an army, however faithful and well the duties of the latter may be discharged.

It is useless to pursue further the parallel between the emoluments of officers of the two periods; in every view in which it may be placed, the disadvantage is presented in bolder and bolder relief against the brave and suffering band of the late war.

At all periods in which this subject has undergone the serious and deliberate investigation of committees of the House, it is worthy of remark, that it has received a favorable consideration, and that at no period has any unfavorable opinion been expressed, either by the House itself, or by either of its committees. The only time in which the subject came fully before the House for discussion, and was discussed after the most serious deliberation, it was passed in the House, and failed only by reason of a compromise between the two Houses at the last expiring moments of a laborious and anxious session of Congress, (in which it was indispensably necessary that a portion of the army should be disbanded,) upon a disagreement between the two Houses as to the quantum of force

to be retained in service; a question, in the then deranged state of the finances of the country, of paramount importance. The friends of this measure, under all the circumstances of the case, patriotically waived the claims of the suffering officers, but never contemplated their abandonment.

From the course pursued in the war of the revolution, it is fair to infer that a like course would have been pursued in the late war, had that war continued but a year or two longer. Congress did not, at the commencement of the revolutionary contest, provide for grants of land to their officers; that promise was not made until some years had elapsed; yet it was made. Had the late war continued a year or two longer, there is every reason to believe that a like course would have been pursued. The officers themselves expected it; they conceived it due to them as an expression of the feeling of the Government for their sufferings and privations, as well as a reward for their services and sacrifices; and that they still think it due to them, is evidenced by the reiteration of their claims.

The present condition of many of these brave and patriotic men requires that they should no longer be neglected or postponed. Some, it is true, may be in easy and flourishing circumstances; but it is believed to be a fact, that a majority of those who are in existence, are far from being placed in such a situation as to render these grants a matter of indifference, or of little or no concern. Many of them have since sought employment, and found an honorable grave in a foreign land. Many of them are known to be in needy circumstances, residing on the public lands, on that frontier which they so faithfully and gallantly defended, while the widows and orphans of others are in poverty and want; and if the grant were now made, it would be esteemed as a boon sent, as it were, from heaven, to relieve their wants and distresses.

The usage of this, as well as of almost all other Governments, gave the officers of the late army reason to expect, that, after the close of their toils, and peace and security had been secured at home, and respect had been enforced abroad, they would be recompensed by some flattering and substantial testimonial of their country's gratitude. Without such a feeling as this, it is impossible to suppose that officers of inferior grades would have remained so long in the service, as it is notorious that their pay was wholly inadequate to their maintenance in the field; and, however patriotic they may have been, necessity would soon have driven them into retirement. It was because they were buoyed up by this hope, that they remained.

The committee have observed, that it is the usage of Governments to give some additional as well as substantial evidence of the country's gratitude to those who have been its defenders in the hour of peril or calamity: sound policy has ever dictated this course; and monarchs even, however despotic, have seldom, if ever, been found to neglect it. This Government, no more than that of any other country, has no patent right for the preservation of its peace, or for its protection against foreign aggression; and, should the time again come, when it will need the assistance of its citizens in a similar or other controversy, it would find its account in doing, even at this late period, that which it ought to have done years ago, and which is now sought to be done.

It is, therefore, the opinion of the committee, that the officers of the army in the late war with Great Britain have strong claims upon the justice as well as upon the liberality of the country, and that every noble principle of our nature requires us to satisfy them. Under these several views of the subject, and of many others which time does not permit the committee to enumerate, they have come to the conclusion that it is just, politic, and expedient, to grant the prayer of the memorialists, and gene-

rally to make provision for a grant of land to such officers as were disbanded in the consolidation of regiments during, and who served to the close of the late war with Great Britain, and were disbanded at its termination, and for the heirs of those who died or were killed in service; and for this purpose the committee herewith report a bill.

## COPY-RIGHT.

HOUSE OF REPRESENTATIVES, DECEMBER 17, 1830.

Mr. ELLSWORTH, from the Committee on the Judiciary, having had under consideration the laws relating to copy-right, presented to the House, for its adoption, the bill accompanying this report:

At the second session of the first Congress, a statute was passed to secure to authors the copy-right of their books, charts, and maps. In 1802, a like statute was passed to secure the copy-right of prints. In both of these statutes, there are provisions which are useless and burdensome, and in which there are likewise discrepancies. It has furthermore been claimed, and, it seems to your committee, with propriety, that the law of copy-right ought to extend to musical compositions, as does the English law. It has been the aim of your committee, in preparing the accompanying bill, to bring the two statutes into one, and to make that free from the objections alluded to, but chiefly to enlarge the period for the enjoyment of copy-right, and thereby to place authors in this country more nearly upon an equality with authors in other countries.

The power of securing the rights of authors, by giving them a copy-right, is, by the constitution, exclusively vested in Congress; and your committee think that the object contemplated is well worthy of the consideration and legislation of Congress. While, for the most obvious reasons, the United States ought to be foremost among nations in encouraging science and literature, by securing the fruits of intellectual labor, she is, in this thing, very far behind them all, as a reference to their laws will show.

In the United States, by the existing laws, a copy-right is secured to the author, in the first instance, for fourteen years; and if, at the end of that period, he be living, then for fourteen years more; but, if he be not then living, the copy-right is determined, although, by the very event of the death of the author, his family stand in more need of the only means of subsistence ordinarily left to them. In England, the right of an author to the exclusive and perpetual profits of his book was enjoyed, and never questioned, until it was decided in Parliament, by a small vote, in the case of Miller vs. Taylor, in the year 1769, and contrary to a decision of the same case in the King's Bench, that the statute of Ann had abridged the common law right, which, it was conceded, had existed, instead of merely guarding and securing it by forfeitures for a limited time, as was obviously intended. But Parliament, feeling the injustice of the statute of Ann, thus construed, afterwards passed a statute, which is now the law of that kingdom, securing to an author a copy-right for twenty-eight years, and, if he be living at the end of that period, for his life. In France, before 1826, a copy-right was secured to the author for life, to his widow for her life, and then to his children for twenty-six years. In 1826, the King appointed a numerous board of commissioners to revise the law of literary property. They reported a bill extending the period of enjoyment to fifty years after the death of the author, which is now the law of France. In Russia, a copy-right is secured for life, and twenty years afterwards. In Germany, Norway, and Sweden, the right is held to be perpetual.

It is believed that this comparison shows that the United States are far behind the States of Europe in securing the fruits of intellectual labor, and in encouraging men of letters.

Your committee believe that the just claims of authors



require from our legislation a protection not less than what is proposed in the bill reported. Upon the first principles of proprietorship in property, an author has an exclusive and perpetual right, in preference to any other, to the fruits of his labor. Though the nature of literary property is peculiar, it is not the less real and valuable. If labor and effort in producing what before was not possessed or known, will give title, then the literary man has title, perfect and absolute, and should have his reward: he writes and he labors as assiduously as does the mechanic or husbandman. The scholar, who secludes himself, and wastes his life, and often his property, to enlighten the world, has the best right to the profits of those labors: the planter, the mechanic, the professional man, cannot prefer a better title to what is admitted to be his own. Nor is there any doubt what the interest and honor of the country demand on this subject. We are justly proud of the knowledge and virtue of our fellow-citizens. Shall we not encourage the means of that knowledge, and enlighten that virtue, so necessary to the security and judicious exercise of civil and political rights? We ought to present every reasonable inducement to influence men to consecrate their talents to the advancement of science. It cannot be for the interest or honor of our country that intellectual labor should be depreciated, and a life devoted to research and laborious study terminate in disappointment and poverty.

Your committee do not perceive any reason for denying to authors the protection of the law, to the extent proposed. There is no serious danger of a monopoly. The question is, whether the author or the bookseller shall reap the reward. It is for the interest of the author to supply the market upon such terms as will ensure the greatest sale; and he will always do this.

This bill secures to the author a copy-right for twenty-eight years, in the first instance, with a right of renewal for fourteen more, if, at the end of the first period, the author be living, or shall leave a family. It is believed that the provisions of the bill are not too liberal, and that Congress ought not to do less than is proposed. Even this is less than is done in any one of the European States referred to.

#### MILEAGE OF MEMBERS OF CONGRESS.

HOUSE OF REPRESENTATIVES, JANUARY 7, 1831.

Mr. HALL, from the Committee on Public Expenditures, to which was referred a resolution of the House relative to a uniform rule for estimating mileage of members of Congress, reported:

That the subject, upon investigation, seems attended with difficulties which render it impracticable to establish any rule which will operate entirely equal. That the existing law, if its plain and evident intention is carried into effect, will approximate sufficiently near equality to render any alteration unnecessary, unless a rule is adopted to make it the duty of the Secretary of the Senate, and Sergeant at Arms of the House of Representatives, with the aid of each member of either House, and Delegate of a Territory, assisted by the Postmaster General, to make an estimate, as nearly as possible, of the actual distance (in a direct line) of the residence of each Member, Senator, and Delegate, from the seat of Government; and that the mileage of Senators, Members, and Delegates, be computed according to such estimate. It did not seem expedient to the committee to adopt this principle in the shape of a bill; and it is believed that no other method would arrive at or approximate to equality so nearly as to render a change of the law materially beneficial. It seems evident to the committee, that the intention of the law of 1818 is simply this: that each member is to be paid for the miles he does travel, and not for those he does not travel; but that the miles which he does travel, and for which he is to receive

pay, are the miles usually or most generally travelled, from the neighborhood or part of the country in which he resides. This seems to be the obvious intention of the law; and it is not to be supposed that members of Congress were to have any greater or lesser privileges in travelling to and from the seat of Government than other people. And it is presumed, if due attention was paid to this principle, though there would still, from the very nature of things, be variations, yet, in the main, equality and justice might generally be as nearly arrived at as by any other mode of computation; unless, indeed, the restrictive principle, under the supervision of the members, the officers of the two Houses, and the Postmaster General, already alluded to, should be adopted. This, if equality is the object, is decidedly preferable; but, if retrenchment is the end in view, a reduction of the amount for every twenty miles, from what it now is, would be the remedy. But even the restricted method could not arrive at equality. We have heard here a great deal about constructive journeys. Does any man believe that it was the intention of the law that members should be paid for journeys they did not make? There have been very great apparent errors committed; and the committee, in discharge of their duty, in seeking the aid of the Postmaster General, have, so far from having obtained from that source such certainty as might, though very erroneously, have been supposed to be in possession of that officer, been sustained in their opinion of the difficulties attending the subject, by the following remarks: "The course now pursued by the Post Office Department is, where the distance has not been ascertained by actual survey, to obtain from different postmasters on a route the stated distances from one office to another. These, in some few instances, have been obtained by measurement, especially on turnpike roads; but by far the greater proportion of them are given by mere estimate, according to the reputed distances in their neighborhoods. The reports of postmasters of the estimated distances often differ considerably one from another; in some instances, from five to ten per cent. In such cases, the mean is generally taken." Again, he says, "No rate can be given to equalize the mileage of members of Congress, unless the several distances should be ascertained by actual measurement: an approximation is all that could be hoped for. Perhaps the post route on which the mail is most usually transported would come as near to the object sought as any other general rule that could be laid down." And, in conclusion, he observes: "Probably the most eligible plan would be, to take the most usual post route as the criterion for a general rule, subject to such exceptions as Congress, in their wisdom, should deem advisable."

The committee will suggest that, should it be the will of the House that either of the plans presented in this report should be adopted, or that it should, by a specific act, be made the duty of the Committee of Accounts of both Houses, who have the subject, respectively for each, specially committed to them, that then the Committee on Public Expenditures, or any other appropriate committee, be imperatively required to report to that effect by bill.

The Committee on Public Expenditures having been instructed by the resolution to inquire into the subject, have done so; and, being unable to come to or devise any definite plan, ask to be discharged from the further consideration of the subject.

#### DUTY ON IMPORTED SALT.

HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1831.

Mr. MALLARY, from the Committee on Manufactures, to whom was referred the "memorial of the manufacturers of salt in Kenhawa county, Virginia, praying for a restoration of the duty on imported salt," presented to the House the following report:

The committee have taken the same into consideration, and are fully of opinion that the laws of the last session of Congress, reducing the duty on foreign salt, ought to be suspended from further operation. The reasons for that opinion they respectfully offer to the House. They will be stated with all the brevity which the subject allows.

The committee consider salt as an article of first necessity, demanded alike by the rich and poor. It is essential, at least, to a comfortable support of human life. It is useful in many of the arts, and all-important to the great agricultural interests of the country. Its value cannot be estimated too high. It is on the ground that it is an article of general and all-pervading necessity, that the committee wish to consider the subject. It seems, therefore, to the committee, that the higher it ranks among the articles required by necessity, the more imperious is the duty of the Government to provide for its production. It ought not to be exposed to danger from any cause which can be averted. The more earnestly this or any other article may be demanded by necessity, the greater should be our exertions to secure an ample and permanent supply. We should provide against all contingencies which may produce want and distress among the people. Nothing ought to be left to chance, when perfect or even partial security can be attained.

Food and raiment may supply the earliest and most pressing wants. The great mass of our people could provide these from the soil, aided by household labor and a few mechanic arts, which never fail to spring up within the narrow circles of society. After these are obtained, nothing can come more effectually to the relief of want than the article in question. Coffee, tea, sugar, silks—a thousand things would be abandoned before salt could be dispensed with.

Should war again take place with the great maritime Power of Europe; should other nations, from which we derive a portion of our supplies, in a fit of jealousy or retaliation, interrupt our trade; should our own Government resort again to non-intercourse or non-importation; should any sudden revolution in commerce take place, all can see the dangers to which our people would be exposed.

The means of procuring a full and adequate supply exist in our own country. They are found on the long line of our seacoast, in numerous parts of our deep interior. The manufacture already exists, to a greater or lesser extent, in nineteen of the twenty-four States of the Union. Investments of capital, improvements for perfecting the article, were daily making, and would have continued with accelerated rapidity, had they not been partially arrested by the act of last session.

If our country must depend on a foreign supply, the consumers of all classes are exposed to other dangers. The greatest proportion of imports will be made in our principal seaports. The salt trade is conducted by comparatively a few. It is not cut up and divided as much as that of other branches of foreign business. It is generally received by our shipping rather as ballast than for the purposes of profitable freight. It is easily monopolized. Our merchants on the seaboard could, whenever they pleased, take it under their own control. Like every other class of our citizens, they are in pursuit of gain. To monopolize an article at common prices, and then demand exorbitant profits, is no uncommon occurrence. To-day the market is glutted, and prices settle down to the lowest point, when monopoly advances, and grasps the whole. Next week there seems to be a scarcity, and prices advance as high as speculation can reach. This is considered one of the most capital operations of trade. No article has been more under its influence than salt. If, of late, it has been less so, it is owing to the great domestic production. The effects of this will be more fully explained in this report.

Besides the common danger of dependence on external

supply, it is heightened by a knowledge of the fact that a great proportion of that supply is derived from a single nation and its dependencies.

In 1826, we received from Great Britain and its dependencies, -	3,533,796 bushels.
From all other places, -	1,030,924

In all, -	4,564,720 bushels.
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In 1829, from Great Britain and its dependencies, -	4,114,047 bushels.
From all other places, -	1,831,500

In all, -	5,945,547 bushels.
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Even under the influence of the great domestic supply, during the past season, salt in some of our cities rose to 55 cents the bushel; recently it sold at 42½. It was supposed by many that the advance was caused by a belief that the domestic production would have been limited under the influence of the act of last session. But, had the recent sales been effected at 10 cents, instead of 42½, the country trader will be required to pay the common market price, when he shall resort to the emporium to replenish his store next spring.

This also applies, in some degree, to the country trade. The great proportion of Northern mercantile business concentrates in New York. It is carried on chiefly at some annual periods, spring and fall. Country merchants understand with great accuracy the condition of their customers, what supplies are needed, and what proportion, among several in the same town or village, each usually furnishes. All are careful not to overstock the market. If one purchases in New York at a price reduced to the lowest point from some accidental cause, and ten days after his neighbor purchases at a higher price of five or ten cents per bushel, still they both must offer the article in the same market. Should the highest purchaser feel confident that he can dispose of what he has bought in a reasonable time, he will keep up the price to meet cost and profit. This is equally known to the lowest purchaser, and he can safely ask the same price for what cost him much less than it cost the other. Hence it is evident that the consumer gains little or nothing by the common fluctuations of trade; he pays for all the profits of monopoly and speculation, and enjoys no equivalent in return. It would seem that these remarks apply with even greater force to the vast population west of the mountains, in the broad valley of the Mississippi.

The quantity of salt imported into New Orleans, in 1830, was a little less than 400,000 bushels. The quantity manufactured on the Western waters amounted to about 2,400,000. The present consumption requires at least 2,800,000. From the rapid increase of population, 3,500,000 bushels in a short period will be required, and the ratio of increased consumption will rapidly advance for half a century to come. Suppose the required supply should be imported, the importation must, of necessity, be confined to a few individuals; it would be exposed to all the varied causes of fluctuating trade. New Orleans would be the only door through which it could pass to the immense Western regions. It must be bought at all events. Concentrated at one point, it could be gathered up by monopoly, having unlimited capital at control, and dealt out to waiting want and necessity, at prices which speculation might please to demand. A domestic supply is now certain, and may be forever secured. It can never be controlled by any external circumstances. Domestic monopoly cannot exist to any dangerous extent among nearly a hundred establishments, scattered along a line of a thousand miles, and where new sources of supply, to any extent, may be opened whenever they may be required.

It appears, by the evidence before the committee, and

annexed to this report, that there has been a steady and rapid decline in the price of salt in the Western country since 1820. At Nashville, Tennessee, in the years 1817, '18, '19, and '20, salt sold from two to three dollars per bushel of fifty pounds. The present price is 62½ cents; 75 cents is the average price for the past year. At Louisville, the price, during the season past, has been from 45 to 50 cents. In Madisonville, Indiana, the price, for the past twelve months, has been 50 cents per bushel. At St. Louis, during the same period, the price has varied from 56 to 62½ cents.

It would seem that when the article can be obtained in abundance at such prices, there is no substantial reason for complaint, more especially when it is mainly owing to the domestic supply, produced under the influence of protecting duties, and, also, when there is every reason to anticipate a continued reduction if the domestic manufacturer may be permitted to pursue his course unmolested.

By some, it may be supposed, that, if prices are advanced by monopoly or the fluctuations of trade, the manufacturer can participate in the advantages equally with the dealer in the foreign article. This would be impossible. It is only by a regular, steady demand and price that he can pursue his business. When there will be a glut in the market, when scarcity, when monopoly will control, he cannot foresee. An extraordinary depression in price, for a season, may ruin him. His capital may be wasted before remunerating prices return. It requires years for the manufacturer to make preparations; the rise of all prices may be effected in a moment. Uncertainty will prevent the use of establishments already in existence, and new ones will not be undertaken.

The committee cannot discover any object more valuable, more national, more vitally important to the country, than a steady, uniform, abundant, and uncontrollable supply of an article so essential at all times to every rank and condition of life. It should be secured by all reasonable means which the Government can command. It is easily accomplished by a just improvement of the resources which the nation possesses within itself in the fullest abundance. By pursuing this course, the numerous dangers to which our people are perpetually exposed while dependent on foreign supply, would be readily averted.

The committee would now allude to the effects which clearly have been produced by the domestic manufacture of salt. On an average for each of the last five years, it amounted to about 4,250,000 bushels. Importations for the same period, annually, have averaged about 5,500,000 bushels; the annual consumption of all kinds, 9,750,000. Suppose the domestic manufacture destroyed—the annual production of 4,250,000 annihilated—what must be the consequence? The effect, for a season, might be, perhaps, to depress prices, because a good supply, both of foreign and domestic salt, is on hand, waiting the ordinary demands of consumption. In anticipation of an advance in price, the foreign surplus, if any, or even a draught on common supply from abroad, might be made, and thrown into our markets. A momentary glut would take place, and depression of price might follow. But another consequence would rapidly succeed. The domestic production of nearly one-half which the country consumes would be nearly destroyed, and a limited supply take place. This would, of course, be attended with the highest prices. But the work of destruction would be completed. This great necessary of life would depend on foreign labor, foreign capital, the vicissitudes of foreign trade, and of foreign and domestic speculation. The ruins of our manufactures would be a perpetual warning against any further effort. Should, at some future day, the wants of the country offer protection, prudence would avoid the allurements to another sacrifice.

The committee would offer another reason in favor of retaining the former duty on foreign salt. As has been

observed, one of the greatest dangers to which the consumers of salt would be exposed, is a monopoly of the article by the dealers on the seaboard, if we depended solely on a foreign supply. This has been in a great measure prevented by the immense quantity manufactured in the United States. If an effort was made by speculators to raise the price of the foreign article exorbitantly high by monopoly, country dealers would leave it on their hands. If they should purchase and transport it to the interior, the people would not purchase, because a great stock of domestic salt is always to be found, or can be easily obtained, at moderate rates. Before this could be exhausted, sales of the foreign article must be made. Country capital would fail in the contest. Prices given to seaboard speculation would come down to prices demanded by the domestic article. Here is the distinct cause why a monopoly by our seaboard merchants would be wholly unavailing. But should the country depend entirely on the foreign importations, or chiefly, every one can readily perceive the danger to which all classes of consumers would be exposed. Little sympathy would be felt for them by those who were gaining fortunes, even at the expense of want and suffering. The country dealers must purchase, and could safely purchase. The people must buy of the merchant, or live without; to no other source of supply could they look. If the domestic manufacture flourishes, the people can pass by the foreign article with indifference. Those along the seacoast can find it there; those in the North can find abundance at the great salt works of New York: from thence it is readily distributed, by canals and lakes, to every part of the interior. The West can be supplied abundantly from its own resources. Monopoly finds a barrier against its operations in every part of the country. In case of war or interruption of commerce, and foreign supply is withheld, every thing is prepared for an extension to meet every possible want.

Another reason is offered. The domestic manufacture employs and sustains thousands of our people. They have been diverted from other pursuits, already reduced to the lowest point of profit. The people around the manufactories, for a considerable distance, can obtain a supply in exchange for various articles, which they have to spare, and which could not bear transportation to those places where foreign salt is obtained.

Again: Four or five millions of bushels of salt greatly multiply domestic exchanges. The operation is generally confined to the interior, and most of the direct and immediate benefits begin and end there. This, it is true, may diminish the business of those engaged in the foreign salt trade, and may be the sole cause, in the minds of many, for desiring a total suppression of the domestic manufacture. All know that the sharp eye of foreign commerce has watched, and is watching, the progress of domestic industry with jealous alarm. In a case like the present, where the foreign article must, of necessity, pass through the hands of the seaboard merchants, it is very natural that they, like all other classes of people, should suppose that whatever business was profitable to them, must contribute to the general good; that nothing could be useful to the country unless they shared in the profits. It, therefore, becomes the duty of the Government to examine the interests of all with strict impartiality, consider them fairly, and adjust them in a manner best calculated to promote the prosperity of every portion of our country.

The committee considering, also, that the article of salt is one of indispensable necessity; that to depend on foreign nations for a supply would be almost as dangerous as to allow them to control the air; that a superintending Providence has placed the means of abundance within the undisturbed dominion of our own people and Government, it clearly comes within the range of the protecting power and policy. It does not belong to that class of articles on which duties were laid for revenue alone. No one ever

supposed that the duty on tea, pepper, pimento, cinnamon, Peruvian bark, capers, and olives, was intended to protect or encourage their production. They have no connexion with the protecting tariff. Duty on these was for revenue; and when revenue is no longer wanted, it may be repealed with perfect safety. But this by no means implies that duties which really effectually sustain some valuable branch of domestic industry, should be abandoned. Even a surplus in the treasury would be a lesser evil.

The committee will proceed to consider the measures adopted by the Government in relation to salt, and the claims which the manufacturer has to a continued support.

The first duty on salt was imposed by the act of Congress, in 1789. Its preamble declares, "Whereas it is necessary for the support of Government, and for the discharge of the debts of the United States, and the encouragement and protection of manufactures, that duties be laid on goods, wares, and merchandises, imported." In this preamble is found a full and ample recognition of the power to encourage and protect manufactures, instantaneously following the adoption of the constitution. On salt was laid a duty of six cents per bushel—a duty higher, in proportion to the foreign value of the article, than was laid on almost every other. It must have been well known in our early life as a nation, how dangerous and unavailing it was to look abroad for a supply. All of the members who composed the Congress of 1789, must have seen the miseries of the revolution; most of them must have largely shared in the common sufferings. The policy of encouraging and protecting the domestic manufacture was prompted by a full knowledge of the privations of a patriot army, in every degree of distress, of the wants of the whole country. During the last war, also, our farmers, the middling classes, and the poor, well remember how dear was the price of the article, and how difficult to obtain it. Then the Government and people urged on the manufacturer to the greatest exertion; even called it patriotic, and promised faithful, cordial, and lasting support. If, during the late war and restrictions on foreign commerce, our people suffered less, it must be admitted that it was entirely owing to the vigorous efforts of our manufacturers. But, when open and apparent danger seems to be removed to a distance, appeals are often made to the supposed interests of the middling classes and the poor, to sacrifice those who provided for their wants in the time of their utmost need.

By the act of August, 1790, the duty on foreign salt was advanced to twelve cents the bushel. In 1797, the duty on each bushel was twenty cents. This act remained in force for ten years. In 1807, all duties on salt were abolished. The committee are advised from the best authority, that no reduction of prices was the consequence. By the act of July, 1813, the duty of twenty cents per bushel was again imposed, to take effect on the 1st January, 1814, and to continue in operation until the end of the then existing war, and one year afterwards. By the act of April, 1816, on a general revision of the tariff, the duty of twenty cents per bushel on salt was made perpetual. The tariff of 1816 was intended to provide a revenue, and at the same time to be so adjusted as to give efficient protection to the different branches of manufacture which had sprung into existence from previous protection, or from restrictions on commerce, or from the war itself. The tariff, as a protecting system, since 1816, has been twice revised, and at each time the protecting duties have been augmented on almost every article of foreign production which came in competition with the domestic manufacture, excepting the single article of salt. The duty on that is now twenty cents per bushel, the same as was laid by the act of 1797, repealed in 1807, and re-enacted in 1813. From this brief history of our legislation on the subject; from the deep root which the manufacture of salt has taken in the country; from the sacrifices about to be

required of a numerous body of our fellow-citizens, and from the exposure of the whole country to the dangers which have been described, the committee most respectfully repeat the hope that the House will review its opinion, as expressed in the act of the last session. Could the Government have given more decisive assurances of support to any branch of manufacture than it has to this? Could our fellow-citizens have asked a more solemn pledge of support than has been given? It was never urged on the Government by manufacturers; it was not the result of anxious and urgent solicitations on their part, but a spontaneous movement on the part of the Government itself, to accomplish a great national object. The voice of experience was then heard; its admonitions were then felt; and it might have been hoped, that, in peace and prosperity, they would not have been forgotten.

It appears that the capital invested in the manufacture of salt amounts to about \$7,000,000. The product, in 1829, may be safely estimated at 4,500,000 bushels. The amount manufactured in 1830 has already diminished, from alarm caused by the recent reduction of duty. The number of persons actually engaged is about 3,600. They, with those immediately dependent, will make an aggregate of 14,000. And here it may be remarked, that, to sustain this great number of people, agricultural products, to an immense amount, are constantly required. These are obtained in exchange, in a great degree, for the article manufactured. But they are so scattered over the surface of our extended country, that the market they afford escapes superficial observation. If they, or a fourth part, were concentrated at any one point of the country, the effects would be most distinctly apparent. The little army during the late war stationed on our frontiers, drew supplies for hundreds of miles around it. Our farmers and mechanics well knew how great was the market it afforded. Had it been dispersed in companies over nineteen States, like the manufacturers of salt, the effects would have been scarcely perceptible, although, in the aggregate, equally important to the whole country, in furnishing a market with supplies, as if it had been assembled in one encampment.

The committee cannot avoid the repetition of the statement, that the duty of twenty cents was laid as early as 1797, and continued, with but a single interruption, to 1830. At the time of that interruption, the manufacture had scarcely commenced. From 1813 to the last session, a period of seventeen years, during which time the protecting tariff having undergone repeated changes and modifications, the duty on salt has been undisturbed and untouched. During this period of seventeen years, the manufacture has been rapidly increasing, and the quality daily improved by advancing skill and continued experience. Why, then, should so many thousands of our fellow-citizens be abandoned at a time when they supposed themselves reposing in perfect security under the protecting shield of their Government? It is a republican Government, and bound to protect its citizens in their various pursuits, and most especially when that Government has allured them to engage in new occupations, which are giving every promise of success, and are contributing largely to the independence of the country. When orders in council from England, and decrees of Napoleon, exposed neutral commerce to every peril on the ocean, our merchants, with open eyes, encountered all hazards. Their enterprise exposed them to spoliations. Aided by a general sympathy, the help of Government has been repeatedly invoked to their assistance. Its utmost exertions have been made, and are now making, to obtain indemnity. Appeals have been often made to the honor and dignity of the nation, to demand redress, even by arms. The committee hope thousands of humble manufacturers of salt may be objects of national regard.

The committee will refer to an argument which has been used, and which, it is supposed, was attended with con-

siderable influence: it was the imposition of a duty of twelve and one-half cents per bushel, by the State of New York, on all salt manufactured in her limits. It was supposed by many to be unjust, in a single State, to tax a domestic production, which entered into general use, for the purpose of filling her treasury, when, as they supposed, she was enabled to do so by a duty laid by the General Government on a similar foreign article. Were the interests of that State alone involved, this opinion might be correct. But a wider view must be taken; we must see how far other parts of the Union are concerned.

The committee consider the duty imposed by the Government of New York is both just and equitable. This, it is fully believed, can be sustained, without resorting to the particular interests of that State for assistance.

The great canal policy of New York has been executed. As was anticipated by the liberal and expanded views of her statesmen, the benefits would not, could not, be confined within her own boundaries. They would be carried, in a greater or less proportion, to every part of the Union; they would promote, in an ample degree, the commercial operations of our country with the whole world. To a great extent, it equalizes the inequalities of nature. It places our people of the interior, in some degree, in possession of comforts and enjoyments, which, without it, would be confined to those who occupy the banks of some frith of the ocean.

Among other considerations which urged on the completion of the Erie canal, were the benefits to be derived from the improvement of the rich salt springs near the centre of the State. Unless in time of war or commercial embarrassments, when the article of salt could command any price which want and suffering could pay, they were of little value to the State or the country at large. Hence was derived one of the strongest inducements to perform that great work. The effect has fully answered expectation. Every farmer, the middling classes, and the poor, now enjoy a full proportion of the advantages which have resulted.

In 1829, the quantity of salt manufactured in that State was 1,291,000 bushels, or nearly one-seventh of all consumed in the United States. This, by inland navigation, is added to the common stock of the country, and tends to diminish the common price to the consumer. Before the canals were constructed, our farmers remember that they cheerfully paid six or seven dollars per barrel for Onondaga salt of a miserable quality; now they obtain a superior article for one-third of that price. The difference in price is mainly caused by the difference in expense between land and water transportation. If the Erie canal had not been completed, the manufacture would have been trifling, and the benefits confined to narrow limits. In times of scarcity, produced by any cause, the people of the great Northern section of the country could have no relief from that source, unless at the most enormous expense. Now, happen what may, they are secure of an abundant supply, at reasonable prices.

It cannot, therefore, be unreasonable or unjust in the State of New York to demand some remuneration for her exertions and expenditures from those who participate so largely in the advantages which have been produced. The tax sinks into insignificance when the causes of its imposition are understood. To require a surrender of the duty at this time, and under circumstances which have been explained, is clearly inequitable and unjust. When the canals were first finished, and while their first benefits were flowing wide, then the State tax on salt was never made the subject of complaint. What was considered, a few years ago, a just and honest claim, is now, in the minds of many, nothing short of palpable oppression.

It is also urged, that, if the State of New York can lay a duty on the domestic article, it affords evidence that the manufacture has gained such an ascendancy that protec-

tion is no longer required. If this is correct, the argument exhausts itself. If the domestic article has become so cheap and abundant as to bear an excise, the removal of the foreign duty would produce no practical effect. Supposed relief could exist only in theoretical imagination.

But the committee are fully convinced that no manufactory of salt, of any importance, could bear taxation, except that in the State of New York. The causes are apparent. One is, the superior quality of the salines, and the inexhaustible supply of mineral water which they afford; another, the extended and unceasing market found along the great Western lakes, along the valley of Lake Champlain and the Hudson, through the interior of the State. Hence, a capital of above three millions of dollars has been invested, and labor stimulated to its utmost exertion. Another, the facilities afforded by canal navigation in the transportation of fuel from places at which it is the most abundantly and most cheaply supplied; but, above all, the ease, the economy, and rapidity, with which it can be distributed to millions of consumers, from Champlain to Green Bay. No other manufacturing establishments in the United States enjoy these advantages in so great a degree. A tax, which may be safely laid on the manufacture in that State, would prostrate every other manufactory in the Union. It would, therefore, seem unreasonable to subject all the manufacturing establishments of the country to the pains and penalties of destruction, because New York, at the price of enormous expenditures on her own account, has improved her natural resources beyond any other State; especially when, with the duty imposed, she furnishes the article of salt as cheap as it can be supplied from any other source. That State has a perfect right, and possesses the power, to counteract the effects of national legislation on this subject. If it is exercised, none have just reason to complain.

The committee do not suppose that every manufactory of salt in the United States will be destroyed, if the act of the last session should take full effect. Some few possess such natural advantages, that they may continue in full or partial operation. But it is considered that the greatest proportion must surrender to inevitable ruin.

It has been repeatedly urged, that the quality of domestic salt is decidedly inferior to the foreign, and wholly unfit for some of the most important uses for which it is required. Some suppose it wants strength; others, that it is combined with ingredients which render its use unsafe. This might have been partially true in the beginning of its manufacture, when skill and experience had not been acquired; but no person of intelligence is now unacquainted with the great perfection to which the article is brought. The best qualities are now produced on the seacoast in Massachusetts, at the salt springs of New York, and at some of the salines of the Western country. They have stood the most rigid tests of analysis, and are found to possess even greater purity than the foreign article. This is just beginning to be understood in the country at large. The domestic salt, at first, like all new productions in any country, was undoubtedly defective. Prejudices existed against it, which required time to remove. The great mass of the people are slow and cautious in changing their pursuits, or the use of any valuable article to which they are accustomed, and in which they have confidence. These prejudices are rapidly giving way in favor of domestic salt; and if the manufacture may be permitted to advance, it will, the committee are fully convinced, obtain a decided preference by all classes of consumers.

It is natural, in a country like the United States, where the people engage in their pursuits with unparalleled activity and ardor, that anxiety should exist to see every object which may be undertaken most rapidly accomplished. The development of skill, as applied to the useful arts, often becomes too tardy for excited hope and ex-



pectation; and, unless perfection is obtained at a single effort, apprehensions are felt that it can never be acquired. In other countries, numerous branches of manufactures required centuries to bring them to their present state of improvement. Many of them have been equalled, if not surpassed, in the United States, within twenty or thirty years; others are advancing with a steady pace, and with perfect certainty will be successful, if the Government will adhere to the policy which it has given the most solemn pledges to maintain. The protecting policy is not intended solely for the present day, but to operate during national existence.

The manufacture of salt has been in operation but little more than fifteen years. Its progress has been as great and beneficial as could have been expected. It had never been more productive in quantity, or more improved in quality, than at the time of the passage of the law in question. Preparations were extensively making, in various parts of the country, for a great and continued extension. These have been arrested, and are now waiting the decision of the Government on the application for relief. Upon this will depend renewed exertion, or a general abandonment of the manufacture.

While the committee are of opinion that the passage of the law of the last session was impolitic, much evil may be averted by a repeal of so much as remains to take effect. The manufacture may struggle on and survive. The experiment can be made, under a reliance that the wisdom of Congress will be exercised as any future occasion may require.

The committee, therefore, report a bill to repeal so much of "An act to reduce the duty on salt," passed May 29, 1830, as has not gone into operation.

Memorial of the manufacturers of salt in Kenhawa county, Virginia, praying for a restoration of the duty on imported salt.

*To the Senate and House of Representatives of the United States of America in Congress assembled:*

The manufacturers of salt in the county of Kenhawa, in the Commonwealth of Virginia, have seen, with the most serious apprehensions and concern, the proceedings had in Congress at its last session, in relation to the protective duty which heretofore sustained and extended the salt business in the United States.

They had not been inattentive to the manifestations of unfriendly feelings towards this branch of American industry; and took early measures, by which they placed before the Government some of the facts and reasons tending, as they thought, to show that the home manufacture of salt could not be given up to a less restrained foreign competition, without eminently endangering the home resources for one of the most important and essential articles of domestic use and public interest; and their memorial, now on the files of Congress, and printed by order of the Senate of the 21st of January, 1828, is most respectfully referred to, and its consideration earnestly solicited.

The duty on salt, as a source of revenue, and as an encouragement to domestic enterprise in its production, is coeval with the Government.

The first Congress which assembled under our present constitution, by an act, approved by the President on the 20th of July, 1789, imposed a duty of six cents per bushel on all salt imported into the States. The same Congress, at their next session, by an act of the 10th August, 1790, increased the duty to twelve cents per bushel.

These enactments laid the foundation for the experiments which were made in the production of salt along our Eastern coast, and added additional stimulus to the researches making in the West for the discovery of supplies of this necessary of life.

The encouragement, however, was not deemed ade-

quate to a sufficiently rapid development of the resources of the country; and, on the 30th September, 1797, Congress augmented the duty on foreign salt to twenty cents per bushel.

The great variety, however, of commercial objects which then attracted the limited capital of the country, left but little for investments in manufactures of any kind; and salt remained among the most languid. Under these circumstances, the experiment was made during Mr. Jefferson's administration, when the resources of the Government were superabundant, and but little capital invested in salt making, of introducing supplies from abroad, without charge; and, by the act of 3d March, 1807, all salt imported into the United States after the 31st of December in that year was declared free of duty.

Happily was it for the interest of the country that this experiment was made! Salt was imported, without impost, from the 1st of January, 1808, until the 1st of January, 1814; and we affirm, without the fear of contradiction, that the article was higher throughout the United States during those six years, than during any period of the same length, from the close of the war of the revolution up to the present time. But this interesting fact will be again adverted to, and more fully examined.

During the late war, the disastrous effects of relying upon others, in time of peace, for an article which enters so essentially into the very existence of civilized society, and the baneful influence that had followed the abandonment of the attempt to bring the resources of a home supply into useful development, and their products to an elevation somewhat commensurate to the national demand, became strongly apparent to all; and, under the liberal and enlarged national policy which then marked the course of the executive and legislative departments of the Government, the duty of twenty cents per bushel on imported salt was renewed, and, by the act of the 20th July, 1813, was reimposed on all salt imported after the 1st of January, 1814. It may not be unworthy of remark, that the same act which renewed this duty, gave the drawbacks and bounties for the encouragement of the fisheries, by which that important source of national wealth, and invaluable school of seamen, has been sustained and preserved to the Union. This act, although rendered temporary by the limitation which it contained, was, in 1816, made permanent.

The close of the long and sanguinary war which had desolated Europe for nearly a quarter of a century, brought into the field of foreign commerce a host of competitors, by which the profits on commercial capital previously employed in foreign trade became greatly lessened, and its owners, seeking for it more secure and advantageous employment, turned their attention to manufactures.

In estimating the safety and security with which such investments might be made, it could not escape the sagacity of the more observing part of the community, that the genius of the Government had steadily and permanently tended to the protection and fostering of our manufactories, particularly such as relieved us from dependence on foreign nations for supplies of commodities of primary necessity.

The earliest operations of Congress had uniformly coupled the encouragement and protection of manufactures with the support of Government, and the discharge of the national debt. General Washington, in December, 1796, had used the following language:

"Congress have repeatedly, and not with success, directed their attention to the encouragement of manufactures. The object is of too much consequence not to ensure a continuance of their efforts, in every way which shall appear eligible. As a general rule, manufactures, on public account, are inexpedient. But where the state of things in a country leaves little hope that certain branches of manufacture will, for a great length of time,

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*Duty on Imported Salt.*

obtain, when these are of a nature essential to the furnishing and equipping of the public force in time of war, are not establishments for procuring them on public account, to the extent of the ordinary demand for the public service, recommended by strong considerations of national policy, as an exception to the general rule? Ought our country to remain, in such cases, dependent on foreign supply, precarious, because liable to be interrupted?"

Mr. Jefferson, in 1808, less than two years after the repeal of the salt duty, pressed upon Congress the necessity of protecting duties, as the only means of rendering our manufactories permanent, in the following strong and decisive terms:

"The suspension of our foreign commerce, produced by the injustice of the belligerent Powers, and the consequent losses and sacrifices of our citizens, are subjects of just concern. The situation into which we have thus been forced, has impelled us to apply a portion of our industry and capital to internal manufactures and improvements. The extent of this conversion is daily increasing; and little doubt remains that the establishments formed, and forming, will, under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and of protecting duties and prohibitions, become permanent."

The same gentleman, in 1816, when unconnected with the Government, and indulging in a retired and calm review of the policy of the country, with all that ardent devotion to the liberty, independence, and prosperity of the American people, which so strongly characterized him through life, poured forth his feelings in glowing terms to his friend, as follows:

"We have experienced what we did not then believe, that there exists both profligacy and power enough to exclude us from the field of interchange with other nations; that, to be independent for the comforts of life, we must fabricate them ourselves. We must now place the manufacturer by the side of the agriculturist. The former question is suppressed, or rather assumes a new form. The grand inquiry now is, shall we make our own comforts, or go without them at the will of a foreign nation? He, therefore, who is now against domestic manufactures, must be for reducing us either to a dependence on that nation, or be clothed in skins, and to live like wild beasts in dens and caverns. I am proud to say I am not one of these."

Mr. Madison's frequent exhortations to protect and foster the several branches of manufacture which had been recently instituted or extended by the laudable exertions of his fellow-citizens, are numerous; and from among them the following are selected:

*Extract from Mr. Madison's message of November 29, 1809.*

"In a cultivation of the materials, and the extension of useful manufactures, more especially in the general application to household fabrics, we behold a rapid diminution of our dependence on foreign supplies. Nor is it unworthy of reflection, that this revolution in our pursuits and habits is in no slight degree a consequence of those impolitic and arbitrary edicts, by which the contending nations, in endeavoring each of them to obstruct our trade with the other, have so far abridged our means of procuring the productions and manufactures of which our own are now taking the place."

In his message of the 18th February, 1815, he uses the following earnest language:

"There is no subject which can enter with greater force into the deliberations of Congress, than a consideration of the means to preserve and promote the manufactures which have sprung into existence, and attained an unparalleled maturity, throughout the United States, during the period of the European wars. This source of national independence and wealth I anxiously recommend,

therefore, to the prompt and constant guardianship of Congress."

Mr. Monroe, equally devoted to the great interest of the republic, and earnestly desirous of placing the American people beyond the reach of foreign control, as to the necessities and comforts of life, pressed the subject upon Congress in terms the most decisive.

*Extract from Mr. Monroe's message of 4th March, 1821.*

"It cannot be doubted that the more complete our internal resources, and the less dependent we are on foreign Powers for any national as well as domestic purpose, the greater and more stable will be the public felicity. By the increase of domestic manufactures will the demand for the raw materials at home be increased, and thus will the dependence of the several parts of our Union on each other, and the strength of the Union itself, be proportionably augmented."

Again, in his message of December 2d, 1823, he says:

"Under this impression, I recommended a review of the tariff, for the purpose of affording such additional protection to those articles which we are prepared to manufacture, or which are more immediately connected with the defence and independence of our country."

The uniform views of the Executive branch of our Government did not, however, constitute the only guaranty on which the capitalists relied for the permanent security of their investments in the manufacture of salt. In the year 1818, a committee of the House of Representatives was charged with inquiring into the expediency and propriety of repealing or reducing the duty on salt. After a patient and full examination of the subject in all its relations, that committee, through its chairman, Mr. Lowndes, placed its veto on the proposition, in which the House of Representatives concurred. Mr. Crawford, then at the head of the Treasury Department, was also applied to for his opinion of the policy which the salt duty created and sustained; and his reply to the House of Representatives was decisive of its preservation, so far as the opinion of that distinguished statesman could influence the opinions and policy of the country.

At this period the most sceptical gave up their doubts; the most timid relinquished their fears of an oscillating policy on the part of the Government, in relation to the manufacture of salt. The early and increased protection given to the home production of this indispensable article by the first and fifth Congress; the concurrent opinions of all who had administered the Government, from its foundation upwards, with the exception of Mr. Jefferson's experiment, the history of which furnishes the most obvious security against its repetition; the deliberate determination of the Government, in 1818, to render the country independent of foreign and uncertain supplies, by giving permanent security to the domestic manufacture, induced the most liberal investments in salt making. New sources of supply were sought out: old establishments, organized to meet the pressing and perhaps temporary demands occasioned by the war, underwent extensive renovation, adapting them to permanent use and more economical operations. New establishments grew up in every quarter, until scarce a State in the Union is now without salt furnaces or salt vats!

During the revision of the tariff laws in 1824 and 1828, no serious purpose was manifested from any quarter to reduce or abolish the protection given to domestic salt; so that the previous confidence reposed in the apparently settled policy of the Government annually acquired strength, and led to corresponding expenditures in this branch of business.

This delusive state of security became so universal, that, at the close of the last year, the investments in salt making could not have been less than six millions of dollars; nor could the number of persons in the United States, sustained

by this field of industry, have been less than three thousand six hundred, besides their families. Even at the commencement of the last session of Congress, the general indications of security were increased. A motion to inquire into the expediency of a repeal did not meet with the usual courtesy of a reference, but was rejected by a large vote; it was reserved for a period of the most unsuspecting confidence, towards the end of the session, when the policy of almost forty years was suddenly abandoned, and property probably to the amount of six millions of dollars surrendered up to a ruinous competition with foreigners, by the passage of "An act to reduce the duty on salt."

That a measure so disastrous to a large portion of the American people should have been so unexpectedly resolved upon, and so speedily executed, was as much a matter of surprise and of inscrutable mystery, as that, of the long list of protected articles, the one entering into the food and sustenance of every human being in the country should have been singly seized upon, and placed almost without the pale of protection, and the whole community rendered in a great measure dependent upon the precarious and fluctuating resource of foreign supplies.

Among the incidents connected with congressional legislation on this subject, it is a remarkable fact, that no petition from the people has ever reached the legislative hall, complaining of the salt duty either as oppressive or injurious to their interests, and satisfactorily shows the light in which they have regarded this protection, and its tendency to secure them a pure and cheap supply, independent of foreign resources.

That the extent and importance of the salt business in the United States may be in some measure appreciated, and that the number of persons engaged in or dependent on this employment may be more justly estimated, a tabular statement is appended, marked A, principally compiled from the documents accompanying a letter from the Secretary of the Treasury to the Speaker of the House of Representatives, on the 8th of February, 1830, with means of correction and additions derived from an extensive correspondence with gentlemen engaged in the salt business throughout the Union.

From this statement, it appears that salt is manufactured in greater or smaller quantities in two of the Territories, Arkansas and Florida, and twenty out of the twenty-four States. So universal are the resources of domestic salt, that no quarter of the Union is without adequate means of producing it, to any extent which present or future demands may require; and so equally is it placed within the reach of industry and enterprise along the whole coast, and from Ontario to the Sabine, that no protected source of national wealth, except that of iron, is so generally diffused throughout the Union, and so equalizes the burdens (if any should result from the fostering policy hitherto pursued) or the certain and extensive benefits that must follow the general development of this mineral treasure.

The act of the 29th of May, 1830, although levelled at a particular article, and carrying injury to the community only to the extent of its production and consumption, cannot fail to produce apprehensions and alarm in the minds of all who are engaged in the great business of manufacturing.

Iron, which is so extensively consumed in the salt business, as to render it probable that from 125 to 200 tons of malleable, and from 380 to 400 tons of cast metal, are annually required, can scarcely sustain the protection now yielded to it, if these important sources of demand are crippled or destroyed.

The consumption of protected cotton and woollen fabrics, and of sugar, by more than three thousand five hundred persons engaged in salt making, together with their families, must be influenced by their reduced means of purchasing. Agriculture and planting, already employ-

ing the labor of the country in excess, must feel the injurious consequences of converting this portion of our people from consumers into producers. And to this act we may safely ascribe the diminution of that confidence which alone induced the enterprise and capital of our country to embark in support of its real independence, by freeing us from reliance on the workshops, the ore banks, and salt mines of Europe.

The abolition of one-half of the duty on foreign salt could not have resulted from any supposed incapacity of the country to produce an adequate supply; for no nation possesses so great a variety of inexhaustible sources. Two thousand miles of coast is washed by a brine yielding a bushel of salt from 350 gallons of water. The saline district of the interior stretches from Lake Onondaga, in New York, to Saline lake, in Louisiana, following in its general course the Appalachian range, and extending to a breadth of upwards of one hundred miles from the western base of this chain of mountains. At various places throughout this vast district, the sources of the salt have been penetrated at great expense, and manufactories commensurate to the extent of population, and the wants of the country, have been carried on with water varying in strength from forty-five to four hundred gallons to the bushel.

On the western border of the great valley of the Mississippi, this important mineral is still more abundant, presenting itself at additional points to almost every explorer of that interesting region. And the Saline lake of Louisiana, the salt springs of Ouachita, those of the Illinois branch of the Arkansas, Boon's salines on the Missouri, Lockhart's on the Lemoyne, the almost saturated brine of the Neosho, and the masses of salt brought from the sources of the Arkansas, of pure quality, strongly attest the value and importance of retaining in the hands of the American people the production of salt for their own use, as well as from the prospect of its forming at some future period an important branch of our national exports.

Formerly, the argument was urged with some plausibility, that the repeal of the salt duty would not affect the manufactories of the interior. It, however, required but a slight examination of the course of the Western trade, the multiplication of steamboats on the Western waters, and the disparity between the ascending and descending cargoes, to produce universal conviction of the destructive effects of such a measure upon the salt business, from the Alleghany to the Rocky Mountains. So obvious has this result become, that a prominent advocate of the repeal has placed his recommendation of the measure on the express ground of supplying the Western States with foreign salt! That no misconception may arise, his words are given. Speaking of the effect of a repeal of the duty, he says:

"The levee at New Orleans would be covered; the warehouses would be crammed with salt; the barter trade would become extensive and universal, if this odious duty was suppressed. A bushel of corn or potatoes, a few pounds of butter, or a few pounds of beef or pork, would purchase a sack of salt; the steamboats would bring it up for a trifle; and all the upper States of the great valley, where salt is so scarce, so dear, and so indispensable for rearing stock and curing provision, in addition to all its various uses, would be cheaply and abundantly supplied with that article."

This argument proceeds upon the ground that a repeal of the duty would cheapen the commodity to the consumer in a degree equivalent to the injury to be inflicted on the manufacturer. It is true, that, so long as the contest for the markets is well sustained by importation and home production, as is the case at present, salt will be afforded throughout the country at its minimum price. It is now brought to the United States almost, if not altogether, as ballast, or to fill that tonnage which would otherwise return home unemployed; but if the conflict is yielded by

the American manufacturers, the increased demand for foreign supplies must immediately rise to an amount beyond what can be brought in this way, and consequently it must come charged with the freights and profits of ordinary merchandise, and immediately rise to sixty and eighty cents in our ports, as in 1807.

The present supply of salt in the United States presents the most conclusive evidence that the duty on importations has augmented, not lessened, the quantity in market; and that its redundancy has cheapened the article to the consumer below what a repeal of the duty could have effected. In 1800, when not more than seven hundred and fifty thousand bushels were annually made at home, our importations of salt amounted to 3,441,819 bushels. The total population of the United States then was 5,303,666, which gives about 44 pounds of salt as the yearly consumption of each person. Salt, during that year, under a duty of twenty cents, averaged about sixty cents per bushel at the ports of delivery, and ranged from one dollar to two dollars and fifty cents in the interior. In 1807 and 1808, when salt was imported free of duty, and before the price or the supply was affected by commercial restrictions, its range in the maritime ports was from fifty to one hundred cents, and from one to two dollars in the Western States.

These admonitory facts, contrasted with the present state of supply and price, at once demonstrate the fallacy of looking to a reduction of the duty, rather than to competition in the markets, for the cheapening of this article. We imported last year 5,901,157 bushels, besides the quantity reshipped; and the home manufacture for the same period, according to the information collected by the Secretary of the Treasury, corrected and somewhat enlarged by private correspondence, amounted to 4,444,929 bushels; which, if our population amounts to twelve and a half millions, gives a consumption of 44 pounds to each individual, and leaves a surplus of 524,650 bushels in the hands of the importer and manufacturer, towards the supply of the succeeding year. The effect upon the price or value of any commodity, by introducing a redundancy into the market, is familiar to all, and cannot be more strongly exemplified than in the present instance. In 1807 and 1808, when salt was introduced without tax or duty, but only commensurate to the wants of the country, the price varied at the most favorable points from fifty to one hundred cents. Throughout the year 1829, under a duty of twenty cents, it has averaged, in the principal importing towns, about forty-five cents.

In the Western States, the mean price of salt, in 1807 and 1808, was two dollars per bushel. In 1829, the price, from Pittsburgh to Natchez, and on the principal tributaries of the Mississippi and Ohio, has fluctuated between thirty-seven and a half and seventy-five cents. Yet those who advocate the abolition of the duty proceed upon the ground of cheapening salt to the consumer! and of rendering it more abundant in the interior of the country.

Recent occurrences have, in some measure, tested the accuracy of these conclusions. The Cincinnati and Louisville markets, generally well supplied from the Virginia works, became somewhat bare during the very low water of the past autumn. The price had been steadily kept down to forty-five and fifty cents; but, on the first appearance of a scarcity of Kenhawa salt, the holders of the foreign commodity put it up to seventy-five cents per bushel, and would have continued this exorbitant price, had not the Virginia manufacturers, at more than double the ordinary expense, replenished those markets, and reduced the article to its accustomed rate.

The American duty on imported salt has been likened to the *grand gabelle* of France, which reduced the consumption of the taxed provinces to nine and one-third pounds to each individual; and to the *felé de se* system of Great Britain, under which about 50,000 tons of taxed

salt were consumed by a population of twelve millions, and under which the residue of the demand was supplied by the demoralizing practices of evading the revenue. These hateful taxes were not imposed on foreign supplies only, but were taxes levied on salt produced within those respective kingdoms, advancing the price to the subject, and restraining the manufacturer in the same grievous proportion.

With the tax which was payable at the salt-pans, Napoleon was enabled to complete the grand entrance into Italy, over the Simplon. In England, the duty, amounting to \$3 33 per bushel, besides the cost of production, was paid on consumption within the kingdom, while all salt exported to foreign countries was exempted from this burdensome imposition.

The striking dissimilarity of the governmental exactions in France and Great Britain, and in the United States, is manifest. In the two first, it was made the engine of draining from the people most exorbitant sums of money, and of diminishing the amount of the manufacturer's business, in the same ratio; compelling the inhabitants not only to reduce the quantity made and consumed at home to one-fourth of the supply enjoyed by the American people, but for which they were compelled to pay seven times the price, per bushel, which the article commands in the United States. That a system so oppressive and disastrous to the working classes, both of manufacturers and consumers, should have been suffered to exist so long, is our only ground of surprise, except the singular corollary deduced from it by some of our leading statesmen, who infer, that, because England has relieved her people from those odious burdens, the American Government ought to give up her citizens to the rapacity of foreign salters and exporters: because Great Britain has relieved her manufacturers of salt from the most oppressive restraints, Congress ought to withdraw its protecting care from our infant establishments.

The English and French internal duty uniformly and steadily diminished the quantity of salt manufactured within those kingdoms, while the light protecting duty of the United States has as uniformly advanced the home supply.

In 1820, the marshals reported the quantity manufactured in that year at 1,149,725 bushels. In 1827, the quantity manufactured within the United States was, on careful examination of the subject, estimated at 4,113,000 bushels; and, notwithstanding the embarrassing apprehensions which have recently hung over this branch of industry, it will be found that the present annual product of our salt works is not less than 4,444,929 bushels. The duty hitherto paid has effected, as has been shown, a reduction of price to the consumer in every part of the Union: in the West, by placing the foreign and domestic article in such fair competition as to reduce each to its minimum price; in the East, by home production, and by excluding so great a portion of foreign salt from the Western waters, as to leave a large surplus along the whole Atlantic border, by which the price has been there reduced from twenty-five to fifty per cent. below what the commodity commanded in 1807 and 1808, when imported free of duty.

Has the shipping interest suffered by this protective regulation? or has the exorbitancy of the duty lessened importations? From the year 1792 to 1800, inclusive, the average amount of foreign salt received in the United States was 2,769,745 bushels. The quantity imported from 1801 to 1806, inclusive, averaged 3,750,622 bushels. From the commencement of 1807 to the 1st of January, 1814, as no duty was collected, no evidence of the quantity brought in is to be found in the Treasury Department. But, from 1815 to 1820, the progressive increase of importation was manifested, and the average increase of those six years amounted to 4,009,855 bushels per annum. From 1821 to 1826, inclusive, the rate of increase was not preserved, owing, it is presumed, to the rapid multiplica-

tion of domestic manufactories; but the mean amount for those six years was but little short of the average of the preceding six, being 3,890,893 bushels.

The removal of the burdensome restrictions from the English salt makers, and the consequent enlargement of their works, so increased the exports from that country, that, in defiance of protection and duties at home, we received, from the 1st of October, 1828, to the 30th of September, in the following year, 5,945,547 bushels of foreign salt; and, from an official statement received from the Treasury Department, it will be found, that, so great was the importation in the last quarter of the year 1829, that, changing the fiscal to the calendar year, the salt received into the United States, in 1829, amounted to the enormous quantity of 6,494,370 bushels.

It is thus seen that the protection heretofore given to domestic salt, so far from diminishing our foreign trade in that article, has been attended with a regular increase; and that our commercial marine has received augmented employment in its transportation, while its carrying trade has diminished in almost every other species of merchandise; and yet it has been the policy of our Government to seize the moment when our manufacture is in its first struggle for existence, and when we are encountering this appalling augmentation of foreign supply, to remove one-half of the protection which mainly brought the salt establishments into existence, and without which they must probably fall before the superior capital and facilities of their foreign competitors.

If it is deemed important that the revenue laws should be modified, with a view to increase the employment of American tonnage engaged in foreign trade, it is humbly submitted whether the experiment can, with justice and propriety be confined to a single article of home production. In following this inquiry, it is by no means intended to question the wisdom and propriety of saving from ruinous competition every branch of manufacturing and productive industry in which we have made encouraging experiments; but, if this rule is not to be preserved in its general and beneficial influence, the inquiry occurs, why is salt selected for sacrifice? Iron, coal, lead, sugar, and a variety of other articles, present themselves, with which our vessels could be more profitably employed than in transporting salt, as these would pay higher freights in proportion to bulk, and which, by their liberal introduction from abroad, would really lighten the burdens which our citizens must encounter in creating and preserving, for a time, any important branch of manufacture. Lead, in bars or sheets, pays a duty of three cents per pound; in shot, five cents; ground in oil, or formed into pipes, the same; which protection, we should suppose, on first view, was scarcely needed by the home producer, who vend it at \$2 50 per hundred along the banks of the Mississippi; yet, to guard against an influx disastrous to the owners and workers of lead mines, the foreign article is excluded by a duty amounting to from seventy-seven to one hundred and twenty-five dollars per ton.

Coal pays a duty of six cents per bushel, and iron thirty-seven dollars per ton. If the duty were reduced one-half on these articles of primary necessity, they would furnish more eligible and more profitable freights to our ships returning from Liverpool, and relieve, to a much greater degree, the burdens of taxation so loudly complained of by the advocates of a free importation of salt, and not more seriously affect those engaged in the home supply than the reduction of duty does those engaged in the salt trade.

Sugar, now paying a duty of from three to twelve cents, according to its quality, for the protection and encouragement of our Southern fellow-citizens, and which enters into the daily consumption of every family, by a similar reduction of the duty, and upon the same hypothesis, would have been cheapened to all who use it, and enlarged the employment of American shipping engaged in the West

India trade. Had our tariff laws underwent a general modification, upon the principle applied to salt, the increased commerce in these few enumerated articles might alone have essentially diminished the importation of that article, by attracting commercial operations to other commodities within the range of diminution. This view of the subject is presented, rather to show the extreme injury done to one particular branch of domestic industry, than for the purpose of drawing other pursuits into the same vortex.

It is certainly a subject of national felicitation to witness the development of the rich resources of the Mississippi States in coal, sugar, iron, and lead; and no pleasing reflection could attend the contemplation of their palsied efforts and hopeless struggles with unrestrained foreign competition; although such a state of things might, as has been shown, prove less injurious to the manufacturers of salt, than their encountering alone the undivided force of foreign competition.

Among the plausible grounds upon which the salt duty has been assailed, the quality of the American article holds a conspicuous place; and, so far as this prejudice been carried, that the domestic salt is believed to be excluded in preparing provisions for the navy, and perhaps for the army. That the Western salt is sometimes discolored by combinations of ferruginous matter, is familiar to all who use it, and with many it is a mark of recommendation, as it identifies the commodity with what they have long employed, and with the excellence of which they are well acquainted. It may, however, be remarked, that the number of establishments is so great, that various degrees of perfection, in the preparation of salt, necessarily, and, perhaps inevitably exist, and lead to the production of some of inferior quality; but this is the invariable consequence of every branch of business in its earlier stages. Time, competition, increasing experience, and wholesome inspection laws, are rapidly diminishing the production of impure salt, and must shortly banish all of that grade from the markets.

The general character of the Western salt, and particularly that manufactured on the Kenhawa river, will not suffer in comparison with that of Lymington, introduced so extensively into the United States, as the frequent preference given by purchasers to the former abundantly proves. If, however, coarser salt is really necessary for packing salted provisions, it requires but the protecting agency of the Government in favor of its production by solar evaporation to extend the supply to any desirable amount.

The enterprise of individuals has already made extensive progress, in New York, in this species of manufacture, in which the size of crystal and purity of mineral do not suffer in comparison with the best salt of Europe; and, although this expensive mode of production can only be sustained through its infancy by the fixed and permanent policy of the Government, it requires but moderate fostering to become as general as the sources of supply.

Should the exigencies of the country, in the interim, require a relaxation in favor of the coarser salt, it does not follow that the entire manufacture ought to be surrendered; a system of drawbacks, remitting the duty on all salt used in putting up pork, beef, and fish, would remedy the want of that peculiar article, and but slightly affect the general operations of the salt business.

The unexampled exclusion of American salt by the Navy Board, can only be accounted for on the ground that those gentlemen have acted under misrepresentation or misapprehension as to the various qualities of our domestic supply. If the exclusion had been limited to the inferior quality, or to the kinds deemed unfit for packing and preserving barrelled provisions on long voyages, it would have stimulated to the production of the kinds suited to those special purposes; but a sweeping rejection can only operate as a general disparagement of our own



21st Cong. 2d Sess.]

*Duty on Imported Salt.*

salt, and the discouragement of any attempts to meet the wants of the Government.

A review of table G shows us how deeply the English salt makers are interested in the questions under consideration: although salt costs fifty per cent. higher in England than in the West Indies, and notwithstanding her general exclusion of the products of our agriculture, and the excessive burdens she imposes on those of the planting States, we imported from that kingdom, between the 30th of September, 1828, and the 1st of October, 1829, more than one-half of the foreign supply, and from Great Britain and her dependencies, more than two-thirds of the salt received in the United States from abroad.

These facts also demonstrate how much the importation of this article is governed by the course of our foreign commerce, and how little by the price at the place from whence it comes, or the vicinity of the points at which it is produced.

The fact may not be generally known, that salt in England is a drug at the price for which it is sent to the United States; and from which it follows that, as soon as the victory shall be achieved by the importer over the home manufacturer, the price must rise, and the ten cents of duty relinquished here will be a bounty of like amount to the foreign producer; and can it be the policy of the American Government thus to sacrifice her citizens to the aggrandizement of British capitalists, or to destroy from six to seven millions of American property, under the delusive hope of obtaining a cheaper supply of salt? We trust that, before this perilous experiment is made, Congress will reflect that capital in trade, if excluded from one channel, still continues active, and finds employment in another. But that is not so with investments in this business; they are fixed. If the salt establishments are destroyed, the annihilation of the capital is as complete as if buried in the depths of the ocean. If "the cultivation, within ourselves, of the means of national defence and independence" has not lost its value, we yet hope that the fostering hand of Congress will not be withdrawn from this important branch of manufacture. In a war with a maritime nation, it must be principally, if not altogether, relied on. The condition of our country in the two former wars with Great Britain cannot but be recollected; and it must be remembered, that the want of a home supply of salt was felt among the most disastrous results of those struggles. What was found more essential to national defence than this indispensable means of supplying and preserving the food of the army and navy, as well as furnishing the inhabitants with this necessary article of life? What nation can boast of independence, that relies on foreign countries for the primary articles of food? In the language of the distinguished gentleman now at the head of the Government, "it is time that we should become a little more Americanized, and, instead of feeding the paupers and laborers of England, feed our own; or else in a short time, by continuing our present policy, we shall all be rendered paupers ourselves." The example of England herself is before us. In the whole history of her political economy, no instance is found of her ever having once adopted a policy for acquiring a manufacture, and afterwards changing it in the slightest degree. The consequence has been, that she has never failed to acquire and establish such manufacture, however unpromising in its commencement; and she has invariably obtained the article manufactured at a cheaper rate, and of better quality, than it could be imported. It is owing to this salutary feature in her policy, more than to any other circumstance, that she now stands unrivalled in her manufactures, in commerce, and in wealth.

Some notice has been taken of a supposed monopoly among the manufacturers of salt in the West, to increase the price of the article to the consumer—a suggestion, as little sustained by the facts, as the hypothesis that a repeal

of the duty will not affect the salt makers of that region. A business carried on on almost every tributary of the Ohio, and spread through seven or eight States, is not in its nature susceptible of concerted action or combined operation. So wild a project was never thought of, much less attempted. If the imputation is directed to the manufacturers of salt on the Great Kenhawa, it is equally without foundation. These works have met with animated and almost overwhelming competition in almost all the markets which they have supplied; and, during some years past, a part of the manufacturers, to supply themselves with the means of carrying on their business, and to save themselves from the threatened ruin, contracted with capitalists for the sale of salt which they made. The measure resulted from a want of adequate protection on the part of Government, and the consequent excess of salt introduced into the Western States. This excess beyond the consumption also compelled, at a most serious loss to the trade, the abandonment of many salt wells, which otherwise might have been profitably employed in active business, and has for some years constrained the manufacturers to limit their production, to their very serious disadvantage.

These certainly were not measures of choice, but of stern necessity, which the Government only could have prevented, by securing the home market to the home producer. During those years of difficulty and embarrassment on the part of the manufacturers, they sold their salt at very reduced rates, to meet the exigencies under which they were placed; and if the purchasers availed themselves of their stock on hand to augment the price, (which is not believed to have been the case,) no part of the profits accrued to the salt makers, nor had they any agency in the subsequent sales. They, therefore, cannot but think that wanton injustice alone could seek an excuse for the repeal of the duty in measures which had their origin in the inadequacy of its amount, and in the condition of our foreign commerce. Monopoly on the Kenhawa, with a view to profit, could scarcely find a place in the views of the manufacturers, as, with a very moderate share of sagacity, they would not fail to perceive the effect of such an attempt. Any increase of price beyond what was essential to the carrying on of their business, would operate more effectually as a bounty to the minor works, than as a source of gain to the controlling establishments; so that every increase of price in their commodity would effectually stimulate the production of others, and bring increased supplies, both from home and abroad, into the markets for which they were competitors, by which their sales would inevitably be narrowed, and their business prejudiced.

At present, and for some time past, the salt business has been more methodically conducted. With a view to abridge the expenses which accrue in effecting sales, and for the purpose of securing to every market a more constant and regular supply, an agency or factorage has been effected, which is no less advantageous to the consumer than the manufacturer. The factors, as is usual in such cases, make a small advance upon the salt delivered to their hands, for the twofold purpose of securing the manufacturer, and enabling him to prosecute his operations. The factor is then bound to keep a constant and sufficient supply in all the markets usually frequented, and, after sales have been made, to pay over to each manufacturer, *pro rata*, the whole proceeds of such sales, subject only to the deductions of the advance payment, the expenses incurred in reaching the markets, and a small commission as a compensation to the agent. Under this arrangement, the manufacturers have the regulation of the price of the commodity, which the active and increasing competition in the West, of a necessity, keeps at its minimum.

This arrangement secures to every market a full supply, and reduces the price to the consumer, by diminishing the

expense inseparable from an agency for each establishment, and obviates the inconvenience of individual shipments, by which some markets were overstocked, and others inadequately supplied; but, with all the economy which it introduces into the business of vending the commodity, and with all the improvements in process of preparing the salt, the foreign supply along the Ohio and Mississippi leaves but little hopes of sustaining the competition, without the restoration of the former duty.

The amount of these importations cannot be ascertained with precision, but the aggregate may be approximated by the following known amounts, shipped from Orleans, and received during the fore part of the present year:

	Bushels.
At Nashville, and on the Cumberland, - -	125,000
At Louisville, and above the mouth of Cumberland river, - -	88,000
At Cincinnati, and above Louisville, - -	55,000
At Florence, - -	35,000
At Maysville, - -	5,000
On the Lower Mississippi, and western district of Tennessee, - -	12,000
St. Louis and Upper Mississippi, - -	45,000
Total bushels, -	*365,000

The deep interest which Virginia ought to feel in the preservation of her salt trade, is illustrated by the leading and successful establishments on the Great Kenhawa and on the Holston. The extent of the operations of the first is evidenced by the inspector's returns; and of the latter, by the communications of General Preston and Colonel White. The aggregate quantity being more than sufficient for the entire population of Virginia, at forty-four pounds of salt for each person, and forming a source of wealth and independence to the Commonwealth, unappreciable in the minds of those who examine with care the latent causes of national prosperity and individual happiness.

The amount of property put in jeopardy by the enactment of last winter, from a reasonable estimate, amounts to from six to seven millions, distributed over twenty States. The number of persons employed, from the best evidences which are accessible, are believed to be about three thousand six hundred and fifty-three; and if we may estimate their families as averaging four members, not less than fourteen thousand six hundred and twelve persons are now dependent on the continuance of this branch of industry; and surely no parental Government, charged with the destinies of a nation, can fail to give the most serious consideration to a measure affecting such a mass of property, and involving the happiness and prosperity of so large a portion of its people; or venture upon the consummation of an experiment fraught with such evident danger.

The salt business rivals no one of the great springs of national wealth, while it is auxiliary to some of the highest importance. It does not draw its contributions from what other pursuits might develop, but brings into action the brine of the ocean, and the salt springs fed from the bowels of the earth, which otherwise would remain valueless.

The shock which has been given to this mass of property, and to the employment and resources of so many of our people, is felt throughout the Union, and can only be arrested by the repeal of the obnoxious act. It has not yet commenced its operations; investments have not yet been made with a view to its provisions, and its repeal cannot, therefore, prejudice the interests of any.

Under the liberal patronage of the Government, and

\* Much of this quantity is received at New Orleans, coastwise, from the Northern ports.

with the unlimited resources which are possessed, the salt business must extend itself until it reaches the limit by which every manufacture must be bounded—the ultimate demand on the one side, and the minimum price of a living profit on the other; improving in quality as the lights of science and the aids of experience shall shed their influence over its operations, and, ere long, giving a cheaper and better commodity for the consumption of the American people, than foreign States can supply, as is now measurably illustrated by the Kenhawa works, whose capacity for production is fully adequate to the wants of the whole Western States, should circumstances warrant the exertion of their resources.

But, if once destroyed, the loss is irretrievable. If the modern doctrine of free trade, taught by those whose manufactures are advanced beyond competition, and pressed upon those whose establishments must be annihilated by its adoption, is to mark the course of our Government, the consequence must, in our humble judgments, be the prostration of every manufacture which our people have attempted, and that of salt among the earliest sacrifices. The lessons of experience may come, but they will come too late; for statesmen cannot rebuild by legislation what their laws have destroyed; as all must be aware that when a manufacture is once abandoned by the policy of the Government whose protection gives it existence, or whose fostering care gave it extension, confidence is at an end; and prudent men will not risk their capital when they see it has been lost by a change of opinion which may again occur, and overwhelm them in the ruin of a new experiment.

The earnest consideration which the manufacturers of salt in the county of Kenhawa have given to this subject, satisfies them of the correctness of the facts, and the accuracy of the conclusions which they have urged, and constrains them to address themselves for relief to the wisdom and justice of Congress, with the confident prayer and expectation that the policy indicated by the enactment of the last session will be reviewed and retraced, and the duty on foreign salt restored at least to its former amount. They deem it unnecessary to remonstrate against a further reduction of the impost, because they are satisfied that no state of things can arise, in which the representatives of the people and the States can be induced further and more rapidly to crush the important establishments of the country.

Unanimously concurred in at a numerous meeting of the manufacturers of salt, held, in pursuance of public notice, at Terra Salis, in the county of Kenhawa, on the 22d day of October, 1830; and subscribed for and on their behalf, and by their order.

JOEL SHREWSBURY, *Chairman.*

ANDREW PARKS, *Secretary.*

### CURRENT COINS.

IN SENATE, DECEMBER 15, 1830.

Mr. SANFORD, from the select committee appointed to consider the state of the current coins, and to report such amendments of the existing laws concerning coins as may be deemed expedient, made the following report:

The coins now in the United States, and the bank notes now circulating as money, are estimated to amount to about one hundred millions of dollars. The coins are estimated to amount to about twenty-three millions of dollars; of which sum, it is estimated that about fifteen millions of dollars are held by the banks, and about eight millions of dollars are in circulation among the people. The bank notes in circulation are estimated to amount to about seventy-seven millions of dollars. The amount of money in circulation among the people is, accordingly, about eighty-five millions of dollars, consisting of about seventy-seven millions of bank notes and about eight millions of coins.

The sum of fifteen millions of dollars of coins is the

estimated average of the coins held by the banks, for several years preceding this time. The banks in the principal seaports have, at this time, an unusual quantity of coins; and the amount of coins now held by those banks is much greater than the sums which they have generally held.

Of the sum of seventy-seven millions of dollars of bank notes in circulation, it is estimated that about one-half consists of notes for sums exceeding five dollars, about one-fourth of notes for five dollars, and about one-fourth of notes for sums less than five dollars. The notes for sums less than five dollars are chiefly for one dollar, two dollars, and three dollars, and a great portion of them consists of notes for one dollar.

The power to establish banks is claimed and exercised by the Government of the United States, and also by each of the States. There are now in the United States about five hundred incorporated banks, and the number is annually increased.

The public revenue of the United States, and of every one of the States, is collected and disbursed almost wholly in bank notes.

The coins held by the banks, and in circulation among the people, are silver. All the coins in common circulation, and most of those held by the banks, are half dollars and the minor silver pieces.

We have no gold coins in circulation.

This country has never determined that either gold or silver should be used as money, in exclusion of the other metal. The constitution of the United States evidently contemplates, in the power conferred upon this Government, to coin money, regulate the value thereof and of foreign coins, and the restriction imposed on the States to make nothing but gold and silver coins a tender in payment of debts, that the money of this country shall be gold and silver. Our system of money, established in the year 1792, fully adopts the principle that it is expedient to coin and use both metals as money; and such has always been the opinion of the people of the United States.

The fact that we have no gold coins in use, is not the intended effect of our institutions. It has resulted from too low a valuation of gold in respect to silver when our system was established, and a progressive rise in the relative value of gold since that time. By our system, the two metals are coined upon the basis that one pound of gold is equal in value to fifteen pounds of silver; and all our coinage of the two metals has been executed in conformity to this relative valuation. This proportion was too low a valuation of gold in the year 1792; and it is certainly much too low a valuation of gold, in relation to silver, at this time. Our gold coins, being much underrated in respect to silver, have never had any general circulation in the country; they have ceased to be used as money; they are merely merchandise, purchased by a considerable premium over silver; and they are used in manufactures, or exported to Europe.

Our public coinage of gold is now wholly without any public benefit. We prohibit and punish all private coinage of gold; we coin this metal at the mint, upon a principle which does not permit it to circulate as money; and we pay the expense of this useless coinage. In practice, this coinage affords a facility to the possessor of gold bullion, since it enables him to employ the mint to weigh and assay his bullion, and to divide it into very convenient portions without expense to himself. When the coins are received from the mint, they are sold for their value as bullion; some of them are used in manufactures, and the greater part are exported. If we will not rectify the legal proportion between the coins of the two metals, we ought to abolish the coinage of gold, save a useless expense, and leave gold to be treated like other metals not coined as money.

Each of the two metals is peculiarly convenient for purposes to which the other is not well adapted. Silver is

divisible into pieces of small weight and small value, and is convenient for payments of moderate amount, but is very inconvenient when large sums are paid or transported. Gold, containing the greatest value in the smallest compass and weight, cannot be well used in pieces sufficiently small for very small payments, but is eminently convenient for large payments and long transportation. These different advantages cannot be enjoyed without the use of both metals: neither metal can be conveniently used as a measure of value, in the form of bullion; and when only one of the metals is coined, the great convenience of using the other in the form of coins is denied.

If both metals are coined, they must, to render them entirely convenient, be arranged into one system of money; and the value which each metal bears in relation to the other, is the basis upon which the connexion of the two species of coins must rest. But these metals, though far less variable in value than other things, are still subject to variation; and the two species of coins will not circulate together, unless their relative value is very nearly adjusted to the relative market value of the two metals. To secure the use of the two species of coins, the relative value of the two species of metals must be adopted as the relative value of the two species of coins; and, for the same purpose, the relative value of the two species of coins must be changed when any considerable change in the relative value of the two metals takes place. The relative value of gold and silver at any time may be sufficiently ascertained; the two species of coins may be adjusted to that relative value; and such an adjustment will secure the use of the coins of both metals, so long as the relative market value of the two metals shall continue nearly the same with the legal proportion of the coins. When a legal proportion is established, it is impossible to foresee how long the relative market value of the two metals will continue, without material variation; but experience has shown that a suitable adjustment will, in general, secure adequate portions of the two species of coin during a long period.

Minute variations in the relative value of gold and silver occur without end. They result from fluctuations in the demand or the supply of the respective metals; they are, generally, of short duration; and they are, in general, vibrations which compensate each other, and leave the average of relative value unvaried. Such fluctuations very little disturb the concurrent circulation of the two species of coins; and even greater fluctuations may occur, and still leave a sufficient supply of the coins of each metal in circulation. When a disparity in relative value, between the two species of coins and the two metals in bullion, occurs, a premium on the underrated coins follows, and this premium is an inconvenience; but while the premium is small, it may leave an adequate supply of that species of coins. While the coins of either metal may be easily obtained by coins of the other metal, the general utility of the two species of coins is attained; and variations which do not defeat that object are of little moment. This degree of harmony between the coins of the two metals is entirely attainable, and is sufficient for practical convenience. Those considerable and durable variations, which, after a due adjustment of the coins, are sufficient to expel either species of coins from currency, are of slow progress. When they take place, the remedy is, to act again upon the principle which led to preceding adjustments, and to conform the coins to the actual relative value of the two metals.

The necessity of occasional adjustments is a small inconvenience when compared with the great inconvenience of using only one of the metals; and such has been the experience of mankind.

Our money now in use is bank notes and silver. Bank notes are pressed into every channel of circulation; and, though no man is legally bound to receive them, they are generally received. So great is the amount of bank notes

in circulation, so widely are these notes diffused through our extensive country, and so much is silver banished from circulation, that the option to demand silver is not within the reach of the great body of the people. The creditor, and especially the poor man, who can neither wait for payment nor go to a bank to demand silver, accepts the bank notes which are offered to him, not because he prefers them to silver, but, in a multitude of cases, because he is in effect constrained to accept them or nothing. One of many causes which swell this torrent, and impose upon the people a species of necessity to use paper money, is the want of gold coins.

Gold and silver have intrinsic value in all times and all circumstances; and coins of these metals are money in all the exigencies of men and societies. Credit is a substitute for money; but it is a substitute dependent upon local and temporary opinion and the casualties of human affairs, and is liable to great abuses. The coins should be such, that when credit is substituted for gold and silver, either of these metals may still be used by all who do not choose to give credit; and still more is it necessary, when credit is impaired or destroyed, that gold and silver should readily take its place. Whether a country has paper money or not, the system of coins should be the same. All paper money consists in promises to pay coins; and the coins for which promises are issued, should be such as sound principles require where no paper money exists.

Bank notes are frequently received in preference to silver, when gold coins would be more convenient or desirable than bank notes. In such cases, gold would be used if it could be procured; and it should be attainable. To refuse to coin gold for the sake of paper money, or because paper money occupies a place which gold would fill, would be a mischievous error. A bad state of the coins is a great evil; but when such a state of the coins is continued, for the purpose of promoting the use of paper money, the end is pernicious, and the means are an abuse of power. Our banks have the right to pay their notes in silver; and they ought not also to enjoy the advantage of an entire banishment of gold coins from the United States. There will surely be sufficient scope for the circulation of bank notes, when the coins which they do not expel from use shall consist partly of both metals: and if it is the interest of the banks that we should have no gold coins, the public interest of the country is, that we should have coins of gold as well as coins of silver.

If the slow and gradual variations which take place in the values of gold and silver, are an objection to the use of both these metals as money, far greater is the objection to paper money issued in such quantities as must necessarily produce great fluctuations. Strange, indeed, must be that policy which can tolerate five hundred different kinds of paper money, and cannot tolerate both gold and silver; which cannot endure the instability of the precious metals, and can submit to the great derangement of values produced by excessive and fluctuating issues of bank notes.

The power to coin money and regulate its value, resides exclusively in the Government of the United States. Our paper money is issued by a multitude of banks established by different authorities, and under no common control; and when we do not suffer the evil, we are constantly exposed to the danger of excessive issues of bank notes. Where the circulating coins are both gold and silver, paper money is less used than it is where all the coins are of silver; and the currency of gold coins in our country will tend to repress this constant tendency to excess of paper money. So far as the use of gold coins in addition to silver may counteract this excess, the effect will be beneficial. If all our banks were under the control of one Government, the use of gold, as well as silver, in coins, would be a most salutary check upon excessive issues. In the actual state of our paper money, it is much more necessary that this check should exist and operate; and the

first step to this object is the due exercise of the power to coin gold and silver. The coinage of both these metals is not only dictated by the sense of the constitution and the soundest principles of public economy, but is also required by the condition of our paper money: and this measure entrusted solely to this Government, is one of its high duties to the country.

Whether, therefore, we consider this question upon principles which should prevail in all times and all countries, or in reference to the peculiarities of our own condition, it is expedient that we should coin and use gold as well as silver.

While we have so much paper money, we cannot have any great quantity of the precious metals in use, as money; and while this extensive use of paper money shall continue, an adjustment of the relative value of gold and silver will not bring much gold into circulation. Still, the necessary adjustment should be made. No man can foresee how far the present course of issuing paper money will proceed, or how long paper money in its present forms and abundance will be tolerated. Whatever may happen in respect to paper money, the precious metals should always be coined, and a sound system of coins should be in constant operation, to the end that whether paper money should be used or not, and whether the amount of our coins shall be great or small, a portion of them may consist of gold, and another portion of silver.

By a resolution of the Senate, of the 29th day of December, 1828, the Secretary of the Treasury was directed to ascertain, with as much accuracy as possible, the proportional value of gold and silver in relation to each other; and to state such alterations in the gold coins of the United States, as may be necessary to conform those coins to the silver coins, in true relative value. On the 4th day of May last, the Secretary made a report to the Senate. This very able report presents a mass of facts and statements which are highly important; and among the papers annexed to it, is a letter from Mr. Gallatin, which is inestimable, for sound and just views of the use of gold and silver as money.

By our system, the expense of coining both gold and silver is defrayed by the Government; and the coins themselves are not subjected to any charge. He who brings gold or silver to the mint to be coined, receives, in return, the same quantity of pure metal in coins which he delivers to the mint in bullion. The proportional value of the two metals in our coins should, therefore, be the relative intrinsic value of pure gold and pure silver.

It has been suggested that it may be expedient to coin our gold in a ratio to silver of one or two per centum less than the relative market value of gold to silver; but this idea is inadmissible. The end of coining the two metals is, that they may circulate together; that every person who has coins of either silver or gold, may easily exchange them for coins of the other metal; and that the people may enjoy the advantage of using either species of coins, according to convenience or pleasure. To attain this end, the two metals must bear the same relative value in coins which they bear as bullion. Where gold bullion and silver bullion are wanted, they are supplied in suitable proportions, according to the demand for each metal; and where gold coins and silver coins are adjusted in value to the relative market value of the two metals, the due portions of the two species of coins are determined by convenience and utility. A legal proportion different from the relative market value of the two metals, banishes the coins of the underrated metal from circulation, or confines them to partial use, with a premium over the coins of the other metal, and, therefore, either defeats the object of a legal proportion, or abridges its benefits. If it is expedient that both metals should be used in coins, both species of coins should, circulate freely, and without the embarrassment of purchasing one by a premium upon the other;

and neither of them should be, more than the other, a subject of traffic. No legal advantage should be given to either metal, in the relative valuation of the two metals in the coins: and our legal proportion should be the true relative value of gold and silver in the United States.

The relative value of gold and silver is found in the prices which these metals bear when they purchase each other; and an average of a great number of prices, during a considerable period, is regarded as the relative value of the two metals, for the purpose of adjusting the proportional value of the two species of coins.

Statements of the prices of gold in this country are annexed to Mr. Ingham's report; and many others have been obtained. A mere average of all the prices which appear in the statements, would not deserve reliance as a true expression of the relative value of the two metals, for the purpose of an adjustment: and all such statements must be examined with great circumspection and attention to many circumstances, in order to deduce from them satisfactory evidence of the relative value of the two metals in the United States.

Our gold coins, the gold coins of other countries, and gold in bullion, are all sold and bought as bullion. The prices paid for our gold coins are expressed very simply, by the premiums on the nominal value of those coins. Gold bullion and foreign gold coins fluctuate somewhat more than our own gold coins; but the prices of all of them are in general nearly the same: and the prices of gold in all its forms may be considered as expressed by the rates of premium on our gold coins. An examination of these premiums will, therefore, sufficiently comprehend the prices of all gold in this country.

The premiums paid for our gold coins have varied much at different times; the lowest premium having been one per centum, and the highest six and three-fourths per centum. These are the limits of fluctuation, according to the statements; but it is ascertained that in some few instances the premium paid has been seven per centum.

Our gold coins are considered to be one-half of one per centum defective in weight and standard; and this allowance is made in connexion with the premiums, in the calculations which follow.

Our supply of gold from foreign countries is constant; and the domestic supply from the Southern States is now considerable. The demand for gold in this country is for manufactures and for exportation. A very considerable quantity is used in manufactures, and the demand for gold for this purpose is very steady; but the quantity used in manufactures is far less than the quantity exported. The chief demand for gold is for exportation; and this demand is sometimes great, and at other times it entirely ceases. Hence result great fluctuations in the prices of gold in this country.

One principal reason of these great fluctuations in the prices of gold, is, that we do not use gold as money. Bullion fluctuates more than coins; but where either of the precious metals is used as money, the demand for coins tends strongly to give stability to the value of that metal, both in coins and in bullion. If there were a steady internal demand for gold coins as money, in addition to the demands for manufactures and for exportation, there would be far more stability in the prices of gold in this country.

Another cause of these fluctuations exists in fluctuations of the medium by which gold is purchased. Our money in use is silver and bank notes; far the greater part in bank notes; and the amount of bank notes in circulation is sometimes greatly increased, and at other times greatly reduced. These fluctuations of the amount of circulating money raise or reduce the prices of gold as they affect all other prices.

The great demand for gold is for exportation to Europe, and especially to England; and this demand, much more than any other, governs the prices of gold in the United

States. When gold is not wanted for exportation to England, all other demand for it is so small, that it falls in price considerably below the general average of its value; and, excepting the ordinary demand for manufactures, little is bought or sold, until the course of commerce again produces a demand for gold for exportation. The prices of gold are, therefore, governed, to a great extent, by the current rates of exchange on England; gold rising in price as these rates of exchange rise, and falling as they fall. When exchange on England is low, gold is so little in demand, that it evidently falls much below the general relative value which gold bears to silver, either in this country or in Europe. When the rates of exchange on England are low, the prices of gold follow the prices of bills, and not the price of silver: and when the remittances are made partly in bills and partly in gold, the price of gold is still determined by the rates of exchange. When exchange and gold both rise to such rates, that silver is exported to England, the two metals are placed against each other in active use, and gold receives its valuation in respect to silver from the two demands for manufactures and exportation.

We have thus different states of prices of gold; one when neither of the precious metals is exported; another when gold is exported, and silver is not exported; and another when both the metals are exported.

The relative valuation of the two metals in the coins should be such that neither species of coins will be exported in preference to the other. If the two metals are valued in the coins at such a rate, in comparison with each other, that one species of coins is exported while the other remains, the object of an adjustment is not attained. The existing evil for which we seek a remedy, is, that our gold coins being underrated in respect to our silver coins, do not circulate, and are exported. The lower prices of our gold when it is used only in manufactures, do not express the relative value of gold and silver, which will render the coins of both metals equally subject to exportation. An average of all the premiums on our gold taken, without discrimination, is three and seven-eighths per centum: and we know with certainty that gold is exported to England in preference to silver, and with more profit, until the prices of gold rise to a much higher premium.

We cannot have the use of gold coins while it is more profitable to export them than to export silver: and it is impossible to retain gold coins in the country, unless their legal value in relation to silver is such, that when one metal or the other, or both, must be exported, there shall be no profit in exporting gold rather than silver.

Our coins of both metals are intended for domestic circulation; and the relative valuation of gold and silver which will ensure this object, cannot be found either in the prices of gold, which occur when neither of the two metals is exported, or in the prices which prevail when gold is exported and silver is not exported. The relative valuation which will ensure the concurrent circulation of the two species of coins, must be found in the prices which the two metals bear when both are exported: and our average for the purpose of an adjustment must be drawn from the prices which prevail when both metals are exported, or are in demand for exportation.

The prices of gold exhibited in the statements of current prices, are prices actually paid when there are sales, and estimated rates when there is no sale. These statements do not show the number of sales, or the quantity sold at any time; nor do they discriminate between actual prices and estimated values. If the different sales of gold, and the quantities sold at different times, were stated, and if actual prices were distinguished from estimated values, it would appear that when the premium on our gold is high, large quantities of this metal are sold and purchased; and when the premium is low, the quantity bought and sold is small; and that when there is no sale, the prices stated are



estimates founded in most cases upon the lower prices of gold. When these facts are disregarded, and an equation is drawn from all the rates of premium stated for a long period, it produces too low a valuation of gold: and reliance for a just average must be placed upon those prices for which the greater part of this merchandise is bought and sold, rather than upon those lower prices which are either nominal, or real only when gold is not exported from the United States.

At this time, the premium on our gold coins does not exceed two per centum: and, according to this premium, the value of gold in respect to silver would be 15.375 to 1. Yet the relative value of gold is now unquestionably much higher than this ratio, both in America and Europe. Exchange on England is now low: the only demand for gold is for manufactures; and the supply much exceeds the demand for this object. This very low premium, resulting from low rates of exchange on England, is for the time a real price of gold; but it is certainly not that price which will place the two metals in such relative valuation, that when a demand for exportation shall arrive, either gold or silver may be exported with equal profit.

Silver is not exported to Europe, until exchange on England rises to about nine and a half per centum of nominal premium: and when exchange on England is at this rate, the premiums on our gold appear to be very seldom less than five per centum, and generally at higher rates. Though, when bills on England are at nine and a half per centum of nominal premium, silver begins to be exported, yet little is then exported; and it appears certain that silver is not exported equally with gold, until bills on England rise to ten and a half or eleven per centum of nominal premium. When exchange on England is at ten and a half per centum of nominal premium, the premiums on our gold appear to be very seldom less than five and a half per centum, and generally at higher rates.

An average of the premiums on our gold, of five per centum, and higher rates, not exceeding six and three-fourths per centum, is five and seven-eighths per centum. But as the premium has seldom risen to six and three-fourths per centum, and most of the sales of gold for exportation have been made for premiums between four and a half and six and a half per centum, the average of the higher premiums may rather be estimated at five and a half per centum.

The table E, subjoined to Mr. Gallatin's letter, is a statement of the rates of exchange on England, and the premiums on our gold coins, for each month of a period of four years and a half, commencing with January, 1825, and ending with June, 1829. Mr. Gallatin states that the average premium on our gold coins for the whole of that period has been about five and one-sixth per centum on their nominal value; and he estimates the ratio of gold to silver, deduced from this rate of premium, to be 15.82 to 1.

If we select any particular period for an average of premiums, the period stated in the table E, being recent and of considerable length, is very proper for that purpose; but, during other considerable periods, the premiums on our gold and the rates of exchange on England have been much lower than they were from January, 1825, to June, 1829. Whether we take the premiums of one period or those of another, the relative value of gold and silver which will secure the circulation of both metals in coins, must be found in the premiums which prevail when both silver and gold are exported.

To avoid the inaccuracy which may exist in compiled statements and estimated rates, a great number of prices on actual sales of gold in the city of New York have been obtained; and many of these sales took place during the period from the first day of January, 1825, to the last day of June, 1829. An average of all the premiums on our gold paid on these actual sales during that period is 5.58

per centum. The relative value of gold and silver resulting from this rate of premium is 15.912 to 1.

When all these facts and circumstances are duly estimated, the conclusion is, that, for the purpose of an adjustment which shall place the coins of the two metals in such relation to each other, that both may circulate in the United States, our average must be drawn from the premiums on our gold, higher than about four and a half or four and three-fourths per centum; and that the average of this higher class of premiums is about five and a half per centum. This is the lowest average which can be deduced from those prices of gold which prevail in this country, when both gold and silver receive their valuations from demand for internal use and demand for exportation to Europe. According to this average price of gold, the relative value of gold and silver in our coins should be 15.9 to 1.

In France, the relative value of gold to silver is about 12.82 to 1.

In Great Britain, gold is in value to silver about as 15.86 to 1.

The relative value of gold and silver in Spain has been 16 to 1 during the last fifty or sixty years; and, according to recent information, the value of gold in Spain is now a little higher than this proportion.

In Portugal, the rise of gold and the decline of silver in relative value were slower and later than in Spain; but the relative value of the two metals in Portugal is now about 16 to 1, and this proportion appears to have prevailed there for many years.

The relative value of gold and silver in the American countries south of the United States is a fact of great importance in this inquiry. In countries which produce one or both of the precious metals in considerable quantities, the supply from the mines fluctuates; these fluctuations are sometimes great; and an extraordinary supply, or an unusual failure of either metal, affects the relative value of the two metals. In most of the American countries which contain rich mines of these metals, the values of gold and silver have been, during many years, disturbed by war, civil commotions, and arbitrary regulations, concerning the mines and commerce in these metals. These circumstances render it difficult to obtain exact information concerning the relative value of the two metals in those countries; but though this relative value cannot be ascertained with accuracy, it may still be discovered, so far as to leave little uncertainty.

From the information which can be obtained, it appears that the value of gold in relation to silver is about 16 to 1 in all the American countries south of the United States. This relative value seems to have prevailed in those parts of America which were formerly Spanish, and especially in Mexico and Peru, during the last forty or fifty years. In Brazil, gold was, for a long time, somewhat less valuable; but, during the last ten years, the relative value of the two metals in Brazil has also been about 16 to 1. In the West Indies, the two metals fluctuate much, in respect to each other; but the ratio of 16 to 1 seems to be the average of relative value.

The relative value of gold and silver in this country must depend principally upon their relative value in the countries from which we receive these metals, and their relative value in the countries to which we send them; and their relative value here must be determined as much by the prices for which we buy gold and silver, as by the prices for which we sell these metals. When we deduce the relative value of gold and silver in this country from relative values existing in other countries, we must resort as well to the countries from which these metals are imported, as to the countries to which they are exported; and our conclusion must be drawn from both sources.

In the ordinary course of foreign commerce, our supply of gold and silver is received chiefly from the American countries south of the United States. More than

one-third of the whole is now received from Mexico. We export gold and silver to Great Britain, silver to France, some silver to China and the south of Asia, and some gold and silver to other countries. Our exports of silver to China were formerly great, and are now small. During the year ending on the 30th day of September, 1828, the amount of our exports of silver to India and China was less than one million seven hundred thousand dollars; and for the year ending on the 30th day of September, 1829, our exports of silver to the same countries did not amount to one million three hundred and fifty thousand dollars. Far the greater part of all the gold and silver exported from this country is sent to Europe.

If we take the relative value of gold and silver in the American countries from which we receive these metals to be 16 to 1, and the average of the relative value of the two metals in all Europe to be 15.85 to 1, the medium between these valuations is 15.925 to 1; and this ratio coincides very nearly with the proportion deduced from those actual prices which prevail in this country, when both silver and gold are exported to Europe.

The Government of the Netherlands has recently adjusted the relative value of the two metals in the coins of that country, and has established the proportion between gold and silver at 15.875 to 1; but the details which may attend this regulation, in respect to charges for coinage or other particulars, are not known.

By the regulations of Spain, the proportional value of gold and silver at the mint is 16 to 1, and has been so since the year 1779. There is, probably, a seigniorage on the coinage of these metals at the mint: but the Spanish regulations in this respect are not accurately known. It is certain that in Spain the coins of the two metals circulate together; that silver is much more abundant than gold; and that the gold coins usually bear a small premium over the coins of silver.

The regulation concerning the relative value of the two metals in the coins, established by Spain in 1779, was at the same time extended to all the mints in Spanish America; and since that time gold and silver have been coined by all the mints under the power of Spain, in conformity to that regulation.

Since the American countries, formerly Spanish, and now independent, have established their own mints, they have observed the same regulation; and their coinage of the two metals is according to the value of 16 to 1.

The proportion between gold and silver in the Portuguese coins of the two metals is 16 to 1, and has been so since the year 1820. In Portugal, the coins of both metals circulate together; but much the greater part of the circulating coins is silver.

In Brazil, the proportional value of gold and silver at the mint is 16 to 1.

Thus, according to all the information which can be obtained, a pound of gold is now worth sixteen pounds of silver in all America south of the United States, and in Spain and Portugal; and, in all these countries, this relative value has been adopted as the proportional value of the two metals in the coins. Though, in some of these countries, this proportion may be varied in effect, by charges on coinage; and, in some of them, the coins deviate from this proportion, in the weight or fineness of the coins of one or the other metal; yet the Governments of all these countries have, evidently, considered the relative value of gold and silver to be 16 to 1: and the concurrent circulation of the coins of the two metals in these countries has well justified that opinion.

So far as the relative value of gold and silver in this country is uncertain, there are reasons of great weight, which should induce us to assign a high valuation to gold in relation to silver.

The labor of counting or weighing the coins which may

be necessary for a remittance to a foreign country, is less in the case of gold than in the case of silver; and where all other circumstances are equal, this reason alone produces the exportation of gold rather than silver.

When the relative value of the two species of coins accords exactly with the relative market value of the two metals, gold coins are exported in preference to silver coins; the risk and expense of exportation being greater in the case of silver than in the case of gold.

When gold and silver sent to Europe, and especially to England, have arrived, gold is in general converted into the money of the country, or available funds, somewhat sooner than silver; and gold is, for this reason, a better remittance.

Gold is rising in value, in relation to silver. During the last three hundred years, gold has, with some temporary exceptions, been gradually advancing in value: during the last twenty years, the enhancement of gold in respect to silver has been quite as great as it had ever before been during any equal period; and gold still continues to rise. The immense power of machinery which has been brought into use in our own time, is fully applicable, and is now applied, to mines of silver; and the quantity of silver extracted from the earth has, from this cause, been already greatly increased. The quantity of gold obtained from the earth has not been much increased by any recent improvement of art. The present progress of change certainly is, to raise gold and depreciate silver, in respect to each other; and it is highly probable that gold will continue to rise, and silver to fall, in the future course of their relative value.

If our gold coins should circulate to any considerable extent, the demand for gold for coinage would in some degree enhance the value of that metal in relation to silver in this country.

Gold is, more than silver, banished from use by paper money: and our gold coins, in order to circulate, must be able to contend not only with the demand for gold to be sent abroad, but also with the expelling influence of paper money at home.

If we should underrate our gold coins, they will have no general circulation. They will be used in manufactures, or will flow through the established channels of commerce as they now flow, almost directly from the mint in Philadelphia to Europe. If we should slightly overrate gold, we shall secure the use of gold coins; and we may lose some silver, but the loss of our silver coins even then would not follow to an inconvenient extent. Almost all our silver coins are half dollars and the minor parts of the dollar. These coins are indispensable in their proper sphere of circulation: their place cannot be filled either by gold or bank notes; and these coins are not often exported. We have a steady supply of silver in bullion; and the mint is now able to coin any necessary or desirable quantity of either or both of the precious metals. An adjustment of the relative value of the two species of coins with as much accuracy as may be practicable, must bring some gold coins into circulation; and the gold brought into currency may in some degree displace the silver coins; but it will, in a much greater degree, take the place of bank notes.

The general course of our exchanges with Europe is against us; and when remittances cannot be advantageously made by bills, gold is sent to Europe, and especially to Great Britain, so long as gold is not evidently too dear in this country, in comparison with silver. For this purpose, gold, other circumstances being equal, is much preferred to silver; and gold rises to its highest value in relation to silver, before silver is exported. This established current of commerce, in which gold is a customary and favorite remittance, tends to maintain this metal at a high value, in relation to silver. Still, this current is not constant; and when gold is not in demand for exportation, its price in

silver falls. But in order that both gold and silver should circulate as money, it is necessary that demands for exportation should fall upon both metals; that when a demand for exportation occurs, it should in general be as profitable to export one of them as the other; and the relative valuation which will ensure this object, is that which exists when both metals are or may be exported with equal profit.

These considerations are submitted, not to recommend any deviation whatever from the true relative value of the two metals in this country, so far as that value is an ascertained fact; but to show, that so far as the relative value of gold and silver is uncertain, we may safely assign a high valuation to gold, within the limits of that uncertainty.

The ratio of sixteen to one is recommended by some considerations which deserve attention. Though Mr. Ingham proposes a lower valuation of gold, he is of opinion that the ratio of sixteen to one is necessary to render gold and silver equally attainable in the United States. Mr. White is also of opinion that no valuation of gold, less in respect to silver than sixteen to one, would effectually retain our gold coins in use. Spain, Portugal, and all the American countries which have mints, excepting these United States, have established the proportion of sixteen to one as the basis of their coinage; and if we should adopt the same proportion, one uniform rule would prevail in all the independent countries in America. Much more of the two metals is now coined, upon the basis that gold is in value to silver as sixteen to one, than according to any other proportion. If it is expedient to conform our ratio to the existing proportion of any other country, it must be expedient to adopt that proportion which prevails most widely, and the ratio of sixteen to one is now far the most extensive example. A rule so extensive is entitled to respect; but the practical operation of the rule is much more instructive; since it shows that this relative valuation of the two metals secures their concurrent circulation in coins in a very large part of the world.

But our adjustment must be founded on the relative value of gold and silver in our own country; and the ratio of sixteen to one is a valuation of gold somewhat too high in the United States.

Upon all the facts before us, the ratio of 15.9 to 1 appears the most eligible. This proportion assigns to gold the average of value which gold bears to silver, when both metals are in demand, for exportation: and it seems more likely than any other ratio to attain and reconcile the objects of a proportional valuation. It is accordingly recommended as the relative valuation most proper to be established in our coins of the two metals.

Various other ratios have been suggested; but any proportion by which gold shall be estimated less in respect to silver than 15.9 to 1, will, it is believed, be altogether insufficient to ensure the circulation of gold coins in this country.

Still, it will be better to adopt any of the lower valuations of gold which have been proposed, than to continue our coinage of this metal according to the existing legal proportion.

The relative value of gold and silver can never be stated with infallible accuracy; but the entire certainty which is unattainable, is not necessary for the purpose of establishing a proportional value between the coins of the two metals. A near approach to the relative market value of the two metals is sufficient for this practical object. When the relative value of gold and silver in any country is examined with the greatest care, different results are obtained by different persons; and no adjustment can ever be made, without encountering this apparent difficulty. In our own case, the difficulty of ascertaining the true proportion is increased by great fluctuations in the prices of gold; and it was to be expected that various opinions concerning the relative value of the two metals in this country should appear. The variety of opinions and propositions respect-

ing the ratio proper to be established in our coins, should not deter us from an amendment of the existing proportion. The difficulty of ascertaining the true relation of value between gold and silver in this country, which now exists, will continue to exist until we shall use both gold and silver as money; and if a new adjustment should not be entirely correct, it will, by its operation, at least, lay a foundation for a more accurate valuation. The opinions which have been expressed by others, the opinions now submitted, and the facts and reasons by which all the different opinions are supported, are now before the Senate; and, from these materials, the proportion which shall be deemed most eligible, may be selected.

A bill is submitted, which, leaving the silver coins unaltered, proposes that our gold coins shall contain the quantities of metal which result from the relative valuation of 15.9 to 1. The weight of an eagle, according to this relative valuation, will be 233 26-53 grains of pure gold, and 254 38-53 grains of standard gold; and a table is subjoined to this report, by which the weights of an eagle resulting from various other proportions are exhibited.

### SILVER COINS.

HOUSE OF REPRESENTATIVES, FEBRUARY 22, 1831.

MR. WHITE, of New York, from the select committee to whom was referred a resolution of this House, of the 23d December, 1830, directing them "to inquire into the expediency of providing by law that dollars of the new American Governments, and five franc pieces, shall be a legal tender in the payment of all debts and demands; and, also, whether any additional regulations are necessary relative to the recoinage of foreign silver coin at the mint," reported:

That the authority "to coin money, regulate the value thereof, and of foreign coin," is one of the powers specially and exclusively granted to Congress by the constitution of the United States; and, in the exercise of this appendage of sovereignty, various regulations have been enacted in regard to foreign coins and coinage.

The constitutional expression clearly justifies the inference that foreign coins were current money, and that their adjustment and retention in circulation were desired by the people of the United States. A brief consideration of the usages of other States, and a minute inquiry into our own practice and present circumstances, will be useful guides in the progress towards just conclusions.

Although national coins are usually and appropriately the metallic currency of the commercial world, yet some States have risen to the highest rank in commerce and general prosperity without adopting the principle of a standard of value exclusively in their own coins. England and France have maintained the exclusive system; but Holland, Hamburg, Genoa, China, and the United States, have, more or less, freely received the coins of well known mints at their intrinsic value. Peculiarity of circumstances may have induced or recommended this diversity of regulations, but there is not any evidence in the historical result, that the exclusive system was particularly beneficial, or that the free reception of foreign coins was inconvenient in practice, or prejudicial in its effects. Our own experience corroborates the latter view.

France is an imposing instance of great national prosperity under a rigid and persevering adherence to its own coins; still, it is not perceived that the reception of foreign coins, at their intrinsic value, with their use restricted to large commercial transactions, could have operated otherwise than beneficially. The profit upon money transactions depends materially upon its prompt and easy disbursement; and its being undervalued at the mint, as is the case in France, amounts to a tax and restraint upon its importation, and, to that extent, it diminishes or prejudices exchanges.

During the progress of Holland to pre-eminence in trade and wealth, (and until very recently,) the introduction of foreign coins was uniformly encouraged. Money was coined for small domestic purposes, but every description of gold and silver coins was received at the bank according to its real value, and there assimilated to the commercial currency, under the general title of "Banco." Genoa at an early period, and Hamburg to this day, have, with great advantage, practised a similar system of mercantile accommodation, except that the deposits in the bank of the latter city have always been restricted to silver. It is alleged that the money of commerce in China is foreign coins converted into gold and silver ingots of certain fineness.

The monetary system of England is comparatively modern, and it is peculiar to that nation. Except the late period of war, their regulations, for more than a century, established in practice the principle, now in legal operation, of a single standard in gold, but a mixed currency. Bank notes, at one time not less than £20 sterling, afterwards £10, and now £5, redeemable, on demand, in gold, are issued and used as the chief circulating medium for discharging commercial or other large obligations. But it is contemplated that all minor transactions, retail business, wages of labor, &c. should be paid in gold, unless under the value of forty-two shillings, when it is optional to use silver coins. Under this arrangement, it is computed that the currency of England is composed of thirty millions of pounds sterling in paper, twenty-two millions of gold, and eight millions of silver; one-half of the entire circulation being metallic. Foreign coins are not a legal tender, but gold, in every shape, is current, at a trivial discount, (one-sixth of a per cent. at present,) or occasionally at the mint value, coinage being free. Silver is there a commodity, varying in price with the foreign exchanges; a seignorage of six per cent. being exacted at the mint, its coinage becomes a Government business, and the supply is regulated by the amount of effective demand.

This limited use of silver rather tends to depress its market value, the more especially as this metal, which England rejects, is, generally speaking, the practical currency and money of the commercial world. The British nation, nevertheless, contend, that this inconvenience is amply compensated by the steady preservation of the value of the money unit, and the retention of the customary coins permanently in circulation.

Our own practice, in regard to gold and silver money, has differed materially from the usage of any of the nations adverted to; and, as custom has an important influence in establishing predilections, a minute and accurate inquiry on this head may prove advantageous and instructive.

Foreign gold and silver coins were the only description of metallic currency that circulated in these States anterior to 1792. In that year, Congress authorized the erection of a mint, regulated the proportions of gold to silver, and established a relative value in all foreign coins then current, according to their intrinsic worth—rendering them concurrent tenders in payments, in conformity with the language of the constitution, which distinctly intimated the necessity and utility of their circulation.

Although gold and silver coins have both been used and regulated by law, yet it is believed that silver coins alone were legally recognised during our colonial history. Whatever may have been the case in this respect, there can be no doubt but a "Spanish dollar" was originally the practical money unit; and if obligations have been discharged with gold and with paper, as well as silver, a certain number of Spanish dollars have, at all times, constituted, specially, or by implication, the basis of exchange and the measure of the contract.

Our money of account was originally an ideal unit, called a pound; but it is very evident that the Spanish dollar

was universally current, from the fact, that, although its value varied in the colonies from 4s. 8d. to 8s. currency each, it was uniformly estimated, in computations of exchange with England, at 4s. 6d. sterling. The universality of that estimate is presumptive evidence that the Spanish dollar was the practical currency of the colonies; and our adherence to a mode of calculation so obviously erroneous exhibits such pertinacity as will only attach to old and well-founded habits; but the nature of the estimate proves, incontrovertibly, the antiquity of its practice. Spanish dollars of that value ceased to circulate by tale in 1728. From the reign of Philip III of Spain, until that time, the standard fineness of silver was 11 1-6 dinheiros fine; therefore, the marc of Castile, 3,557 grains, must have yielded 8½ dollars, containing 389 4-10 grains; but the remedy then being (two grains fine) nearly three grains each, the value of dollars, antecedent to that period, was, likely, from 386½ to 387½ grains of fine silver. According to the British standard, established in 1601, 444 grains of fine silver being rated at 5s. 2d. sterling, 4s. 6d. were represented by 386 7-10 grains, equivalent to the average value of the Spanish dollar, as above stated, in circulation previous to 1728.

Sir Isaac Newton's return of assays, made by order of the British Government earlier than 1717, contains this statement:

	Dwts.	Grains.	Eng. standard.		Value sterling.	Grains fine silver.
			Dwts.	Grains.		
Dollar of Spain,	17	12	17	10 1-10	4 6 7	386 3-4
Dollar of Mexico,	17	10 5-9	17	8 7-10	4 5 5-6	385 1-2
Pillar dollar,	17	9	17	9	4 5 7-8	385 3-4

And Ricard, in his "Traité General du Commerce," asserts that it was rare to see in the British American provinces any English coins, but that the following foreign silver coins were made legal tenders in payment, by an act of Parliament, passed during the reign of Queen Anne, in 1706, viz. German rix dollars, Flemish ducatoons, French crowns, Portuguese crusadoes, and Dutch three guilder pieces, at specified rates: and the variety of the Spanish dollars is designated thus:

Dollars of	Dwts.	Grains.	Value sterling.	Value currency.
			s. d.	s. d.
Seville, or Mexico, weight,	17	12	4 6	6 0
Seville, or Peruvian, do,	17	12	4 5	5 10 2-3
Pillar dollar, do,	17	12	4 6 3-4	6 1

Which several circumstances fully establish the fact, that the Spanish dollar has been, throughout the entire period of our commercial history, the practical or legal money unit, and the chief instrument of exchange.

In 1728, the standard purity of silver in the Spanish dollar was reduced to eleven dinheiros, equal to 383.2 grains, being a reduction in value of 1 1-2 per cent.; and a royal edict, issued in 1772, established the regulation which yet prevails, of ten dinheiros and three-fourths fine, equivalent to three hundred and seventy-four grains and seven-eighths to each dollar, with but one grain fine for remedy.

In 1786, the Congress of the confederation adopted a dollar as the money unit, and fixed its value at 375 64-100 grains of fine silver, the coins to contain one-twelfth part of alloy.

General Hamilton, in his celebrated report upon the establishment of the mint in 1791, recognised the Spanish dollar as the practical standard of the United States; but, from some cause not now susceptible of satisfactory explanation, he does not appear to have ascertained correct-

ly the precise value of that coin which he evidently desired to adopt as the unit and basis of our monetary system. The art of assay must have been then very imperfectly understood in the United States, as he notes a difference of twenty-four grains in the result of various experiments; an incredible disproportion in coins of established and universally good reputation.

The European assays, which returned the quantity of fine silver at three hundred and sixty-eight to three hundred and seventy-four grains, were probably a correct record of every variety in circulation; but, as the regulations of all mints are dictated with fractional precision, it ought to have been inferred that a discrepancy of six grains was attributable to wear, and not to irregularity in the fabrication of such a valuable commodity. General Hamilton assumed the average, instead of the highest assay, as the groundwork of his system; and having added thereto one-fourth of a grain, in order to attain numerical exactness in the relative value of gold, our dollar or money unit was finally regulated in 1792 by a law of Congress, which altered the value of the unit adopted in 1786, in the following terms: "There shall be, from time to time, struck and coined at the said mint, dollars or units, each to be of the value of a Spanish milled dollar, as the same is now current, and to contain three hundred and seventy-one grains and one-fourth of pure, or four hundred and sixteen grains of standard silver."

The early operations of the mint do not appear to have conformed to this legal regulation. Amongst various assays made in London by eminent artists, as furnished by Dr. Kelly, American dollars are stated as follows:

Years.	Weight.	English standard.	Grains of fine silver.
	dwt. grs.	dwt.	
1795,	17 8	6 1 2 worse,	373.6
1798,	17 10 1-2	7 do.	375
1802,	17 10	10 1-2 do.	368.3
Average of 8 years,	17 8	8 1-2 do.	370

Whatever may have been the rate or regularity of the mint operations, the quantity of dollars coined in twenty-three years, ending with 1816, (1,400,000,) was too trivial to create any distinction in value in internal circulation: our customary standard, the Spanish dollar, constituted then, and at all times, the chief portion of the metallic currency, as well as of the specie held by the banks. It continued to be the practical tender and measure of contracts; and the concurrent circulation of so small a portion of our own coins occasioned no inconvenient discrimination. Congress ceased to regulate the value of one description of foreign coins after another, until, finally, in 1827, none were recognised as legal tenders, except our ancient money, the "Spanish milled dollar." If plurality rightfully confers denomination, these dollars should always have been designated as "Spanish American dollars;" they were coined by the mints of this continent, and the dollars of Spain were rarely seen in circulation.

Political events have given new and more respectable titles to the countries from whence these coins have always issued, and a change of name alone has withdrawn the privilege of presenting these dollars as a legal tender in payments.

Very recently a demand for specie, upon one of the most respectable banks in our commercial metropolis, was met by a tender of dollars coined by the mints of America, formerly Spanish, and refused: the friendly aid of another institution furnished the required amount in United States' coin, and relieved the bank from the mortifying and painful alternative of acknowledging its inability to redeem its notes with lawful money; thereby hazarding the enforcement of the penal article of its char-

ter, which inflicts twelve per cent. per annum interest until the demand is legally discharged. The money tendered was well known to be of the same standard as the "Spanish milled dollars," and about one-half per cent. more valuable than our coin; fulfilling, in every essential quality, the spirit and object of the law, yet liable, on any occasion, to be refused, from a nominal discrepancy with the legal requisition.

The various laws of Congress in respect to foreign coins having obviously contemplated their rejection from general circulation so soon as circumstances might conveniently authorize that measure, and as the "Spanish milled dollar" will ere long disappear in foreign trade, the present occasion appears favorable to an expanded consideration of this subject.

In countries where gold and silver compose exclusively, or chiefly, the currency, it is a general and very convenient practice to use national coins. The public seal is a satisfactory evidence of their value, and the money unit and its parts, being uniformly exhibited, facilitates computation. This usual practice did not, however, obtain, when our circulation was principally metallic; and the motives of convenience, which recommend an extensive issue of standard coins, cease to have influence in our present circumstances. Our currency is bank notes, to the exclusion of the precious metals, except as change. The money unit of the United States, or its concurrent tender, "Spanish milled dollars," is rarely, if ever, seen in circulation. The currency differs from that of all other nations extensively commercial, in being truly and effectively paper, secured by a specie fund, held by its issuers, the banks.

The public are deeply interested in the amount of this safety fund; but it does not appear to be of any importance to their convenience or security, whether it consists of gold, or of silver, of coins, or bullion.

Its peculiar character cannot be of any consequence to the banks, as their interest merely requires a supply sufficient for every exigency, of whatever may be designated lawful money.

Gold and silver, whether coined or not, are viewed in the commercial world as bullion, and valued according to their quantity of fine metal. The stamp of the United States adds nothing to the value of the precious metals abroad; and, as it is a costly impression, it should only be applied when necessary to the general convenience of the community. It is not perceived in what respect the public convenience is promoted by the coinage of silver, which passes temporarily into the vaults of the banks, and is soon afterwards again melted by refiners in foreign nations.

That such is the course and effect of commercial enterprise, will be evident upon reference to the mint operations, and to our trade in the precious metals.

The director of the mint states that the American coin possessed by the Bank of the United States, and its branches, is less than two millions of dollars, or about one-sixth part of its specie. Assuming a similar ratio for the State banks, (which is a liberal estimate, considering the advantageous position of the former institution,) the entire amount of American coin held by the banks does not, likely, much exceed four millions of dollars. Taking the issues of one, two, and three dollar notes, in the Eastern States, as a guide, it does not seem probable that there is a greater amount of silver in general circulation, of all denominations, than five millions of dollars, of which, perhaps, three to four millions are American coin.

According to this estimate, the national coins do not, likely, exceed seven to eight millions of dollars in silver. The mint has fabricated thirty-seven millions, of which nine millions were of gold. Considering that twenty millions of silver coins have been issued since 1817, and about eleven millions within the last five years, the inutility and



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inexpediency of extensive operations at the mint are manifest. Our coins being less valuable than Spanish dollars, or those of the new American States, would have the effect to maintain them exclusively in domestic circulation, if the currency was metallic; but the same cause, that of being overrated, induces the banks to tender them on all occasions when specie is demanded for exportation, unless they can obtain an acceptable profit on their foreign dollars. The difference of intrinsic value is about four to five mills each, but foreign dollars have commanded from one-half to one and one-fourth per cent. premium; hence the inferiority in value of our coins tends to hasten their exportation.

The amount of foreign gold and silver coins exported annually, during five years ending with September, 1829, appears to be about six and one-third millions of dollars.

1825, specie exported,	- - -	\$8,797,055
1826, do.	- - -	4,098,678
1827, do.	- - -	6,971,306
1828, do.	- - -	7,550,439
1829, do.	- - -	4,311,134
		<u>5)31,728,612</u>

Average exports yearly, \$6,345,722

The average yearly amount of American coins for three years, (which are the only distinct returns,) is about eight hundred thousand dollars.

1827, American coins exported,	- - -	\$1,043,609
1828, do.	- - -	693,000
1829, do.	- - -	612,900
		<u>3)2,349,509</u>

Average annual export, \$783,167

From which it appears that there are, in all, upwards of seven millions of dollars annually exported.

The imports of gold and silver, during the same time, average seven and one-fifth millions.

1825, specie imported,	- - -	\$6,150,765
1826, do.	- - -	6,880,066
1827, do.	- - -	8,151,130
1828, do.	- - -	7,489,741
1829, do.	- - -	7,403,612
		<u>5)36,076,214</u>

Average imports yearly, \$7,215,243

During the same period, the exports to Mexico and South America averaged, yearly, domestic produce, about four and a half millions; foreign produce, six millions, viz.

Exports.	Domestic.	Foreign.
1825, Mexico and S. America,	\$5,117,900	8,533,400
1826, do.	4,717,700	8,237,600
1827, do.	4,561,500	4,879,600
1828, do.	4,622,200	4,509,800
1829, do.	4,242,400	3,459,100
	<u>5)23,261,700</u>	<u>29,619,500</u>

Exports average yearly, \$4,652,360 5,923,900

Imports from these countries nearly six millions of dollars of merchandise, and nearly five millions of gold and silver.

Imports.	Merchandise.	Specie.
1825, Mexico and S. America,	\$6,014,900	3,684,000
1826, do.	6,778,200	3,657,100
1827, do.	4,735,800	5,704,300
1828, do.	6,136,700	5,533,800
1829, do.	5,913,500	5,672,500
	<u>5)29,579,100</u>	<u>24,251,700</u>

Imports yearly average, \$5,915,820 4,850,300

These various details appear to authorize the following conclusions:

First. That it is of no importance to the public, or to the banks, the description of the silver money that constitutes the specie fund, provided a sufficiency of American coin for change can be obtained, and that Congress give a legal character, as was the practice formerly, to the foreign coins which usually circulate in general commerce.

Second. That American coins being overrated, light in comparison with foreign dollars, does not prevent their free exportation.

Third. That the demand for silver for internal circulation is of very trivial amount.

Fourth. That a large portion of the gold and silver coins imported is purchased with foreign produce, and is in transit, destined, through our agency, for distribution, to supply the wants of other nations.

If these opinions are well founded, the gold and silver coins imported are commercial commodities, calculated for foreign consumption, and entitled to every facility and privilege consistent with sound policy.

An error having been committed in establishing the money unit "of the value of a Spanish dollar" at three hundred and seventy-one grains and one-fourth of pure silver, there are two modes in which the existing and consequent inconvenience may be remedied.

First. The error may be rectified, without inflicting any injury of consequence, or prejudice to property or contracts, by causing the rate of coinage to conform to the original and clearly expressed intention of the law, that of three hundred and seventy-four grains of fine silver to the unit or dollar, being the value of a Spanish dollar in 1792, and limiting the tender of the half dollars now in circulation to payments of ten dollars; or,

Second. The inconvenient effect of the error may be corrected by adhering to the established and existing silver standard, by rejecting the ancient currency and money of contract, a "Spanish milled dollar," as a tender by tale, and by estimating all foreign coins as bullion, and regulating the measure of its value by its quantity.

The committee are decidedly in favor of this latter course. A new and powerful mint is nearly completed, and American coins ought hereafter to be the only metallic money in domestic circulation. The Spanish dollar will soon be unknown in foreign trade; the dollars of the new American States have not yet been legally recognised; and specie being unusually abundant, the circumstances are propitious to the permanent adoption of a measure which has been long contemplated.

The silver coins in the banks should be viewed as the money of commerce, the value of which is determined by its quantity of fine metal. This course is in accordance with sound mercantile principles, and with former usage.

Congress has repeatedly sanctioned it by regulating the value of British, Portuguese, French, and Spanish gold; and also of five franc pieces and crowns of France; giving them currency, according to their weight when tendered, at rates calculated to minute fractions, varying with the standards of their respective mints; a course of policy which is equitable to all in its effects, and beneficial as well as accommodating to commercial operations.

Our merchants import these dollars to discharge their

debts, or to make purchases from foreign nations. When the imported dollar of 373½ to 374 grains of fine silver is received on arrival at the value of 371½ grains, the importing merchant is taxed two-thirds of one per cent. upon his property, which is money. Suppose these dollars are minted into American coins, one hundred dollars and one-half will be furnished to the depositor for every one hundred dollars imported, at the expense of the United States of one and one-fourth per cent., according to the statement of the director of the mint; and when thus converted, at this heavy expense to the public, the one hundred and one-half dollars of American coin are less valuable abroad than the one hundred dollars imported, as will be perceived by reference to copies of actual sales in France.\*

If these coins were a legal tender on the principle of regulation applied to other coins noted, being current, by weight, at the correct value ascertained by mint experiments, that of 116 1-10 cents per ounce, justice would be rendered to the importing merchant; a heavy annual expense would be saved to the United States; and banking and commercial transactions would be greatly facilitated. If our currency was metallic, public convenience might reasonably demand, and properly discharge, the expense of coining all silver previous to its being tendered in payments.

The foreign dollars being imported for no other object than exportation, it appears to be a departure from sound policy, to countenance regulations that cause a deduction tantamount to the imposition of a tax of one-half per cent. on a commodity, as it were, but temporarily in entropet.

It is yet more injudicious to incur a heavy annual expense at the mint, in giving these coins a new character (that of United States' dollars) less known in commerce, and, consequently, rather a disadvantageous alteration.

The chances of profit to the merchant are greater when an export of the precious metals is made in foreign coins. They may be returned to the countries from whence they issued, or where they are current, and be used on arrival as effective money; or some of them may be received in particular States with partiality, as is the case in France with Spanish dollars, or those of the new States, which appear to command six centimes each, or about 1 1-7 per cent. more than our coins, although the difference, according to the mint test, is but one-half per cent.

It has been suggested by the Secretary of the Treasury and the Director of the Mint, whose opinions are justly entitled to great respect, that the existing inconveniences would be removed, by regulating the Mexican dollar alone as a legal tender, by tale, in all payments.

The committee are inclined to view this recommendation as not sufficiently efficacious. Our uniform appellation of "Spanish milled dollars" embraced the coins of Spain, and of its various mints in America. The discrimination suggested might not be viewed agreeably; and there is no evidence that any of the South American dollars (except those of Colombia) differ in any degree as to standard fineness, nor is the least valuable of them inferior to our dollar.

The measure proposed would prevent the recurrence of the difficulty experienced at New York, but it could have no tendency to establish Mexican dollars of 373½ to 374 grains in concurrent and promiscuous circulation with American coin of 371½ grains of fine silver. It would not relieve the mint from its present oppressive duty of coining, uselessly, foreign dollars, at the heavy expense of twenty thousand dollars yearly, nor would it produce the desirable and equitable effect of enabling our enterprising merchants to obtain the just value for their money on its arrival. Formerly, when a merchant imported crowns or five franc pieces, or gold, he was authorized to tender them in all payments at their intrinsic worth in fine metal,

as ascertained by the mint. If this just right be so restricted as to protect the community in their ordinary dealings from inconvenience, the regulation of all such foreign coins as our merchants trade in, as legal tenders, (according to quantity of fine metal,) cannot fail to facilitate and benefit commercial transactions.

In conformity with these views, the committee recommend that the dollars of Mexico, Central America, Peru, Chili, and La Plata, and also the dollars restamped in Brazil, of the denomination of 960 reas, shall be a legal tender in all payments above the sum of one hundred dollars, at the rate of 116 1-10 cents per ounce troy, provided the aforesaid coins shall be of the usual standard fineness of 10 ounces 15½ pennyweights of fine silver to the pound troy of 12 ounces; and that the five franc pieces of France, of the standard of 10 ounces 16 pennyweights fine to the pound troy, shall likewise be a legal tender in all payments exceeding one hundred dollars, at the rate of 116 4-10 cents per ounce troy.

The committee beg leave to annex to this report some valuable documents in relation to the mint, which have been furnished by the Secretary of the Treasury. The communications from the highly respectable director of that institution will be perused with much interest and satisfaction, as they exhibit great skill and accuracy in the management of a scientific, intricate, and important establishment.

The result of the mint operations may be stated thus:

1794 to 1830, 37 years—			
Gold coined,	-	-	9,335,000
Silver coined,	-	-	27,480,000
			<u>\$36,815,000</u>

Expense,	-	854,000	
Wastage,	-	117,000	
		<u>\$971,000</u>	or 2½ per cent.

Gain on copper, \$127,200

1817 to 1830, 14 years—			
Gold,	-	-	3,800,000
Silver,	-	-	20,100,000
			<u>\$23,900,000</u>

Expense,	-	325,000	
Wastage,	-	66,000	
		<u>\$391,000</u>	or 1½ per cent.

1826 to 1830, 5 years—			
Gold,	-	-	1,303,000
Silver,	-	-	10,937,000
			<u>\$12,240,000</u>

Expense,	-	121,500	
Wastage,	-	30,000	
		<u>\$151,500</u>	or 1¼ per cent.

Annual average deposit of silver.

1826 to 1830, 5 years—			
Bullion,	-	-	600,000
Mexican dollars	-	1,500,000	
Spanish dollars,	-	150,000	
Various coins,	-	150,000	
		<u>1,800,000</u>	

Coins,	-	1,800,000	
Average yearly deposit of silver,	-	<u>\$2,400,000</u>	

\* See Secretary of the Treasury's report on gold coins.

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From these statements, it appears that the mint has coined, since its establishment in 1794, about thirty-seven millions of dollars, of which amount four-fifths probably have been exported, leaving only seven to eight millions in the United States, after incurring the heavy expenditure of nearly one million of dollars.

The silver coinage of the last five years is nearly eleven millions, or about two-fifths of the entire quantity minted of that metal. Of these eleven millions, about eight millions have been coined from foreign dollars, chiefly of that description which is most current in general commerce. The new character will certainly not be advantageous to their final disposal, though it has been effected at an expense to the public of fully one hundred thousand dollars.

The committee have already expressed the opinion that this weighty expenditure of the public money on standard foreign coins is not recompensed by any sort of public benefit; and the following extract from a letter of the director of the mint affords strong confirmatory testimony of its correctness.

"The specie of the United States' Bank is now nearly eleven millions, and of this amount they have less than two millions in our coin—a sum which does not exceed the amount delivered that bank from the mint within the present year. Our coinage for that institution, from 1824 to this time, exceeds eleven millions of dollars."

This account seems to authorize the impression that our coins go abroad almost as speedily as they are fabricated. Whatever may be truly the case, it is very evident that the minting of foreign coins is a useless expenditure of the public revenue to a large amount annually.

If the total quantity of coins in general circulation be correctly estimated at five millions of dollars, the wear and necessary supply for an increasing population cannot, under our present system of money, create a yearly demand for more than two to three hundred thousand dollars of new coins, in addition to the amount in circulation.

The deposit of silver bullion, for five years past, appears to be increasing; and its annual average being \$600,000, there is no reason to doubt but the mint will be abundantly supplied with silver for every useful and desirable object.

The director of the mint is of opinion that certificates of deposits may be issued in one to five days; and the committee recommend to the consideration of the House the expediency of adopting such measures as will authorize the Secretary of the Treasury to pay the amount of all deposits of bullion as speedily as the value can be ascertained, deducting therefrom one half per cent., which the director states to be the usual discount on these certificates.

The committee are of opinion, from the mint return, that there must be a scarcity of quarter dollars, and they think the operations of the mint might be advantageously extended in the fabrication of that coin, and also of dimes and half dimes. Late experiments amongst the scientific artists of France encourage the expectation of improvements in the mode of assay, calculated to establish greater accuracy and uniformity in its results.

The suggestion of the Secretary of the Treasury, in reference to the relative proportion of alloy in coins, is judicious, and its adoption would simplify the process of alloying. The decimal divisions are convenient, and appropriate to our monetary system. One-tenth part of standard coins, whether gold or silver, is recommended by convenience. The existing proportion of 179 to 1,664, in silver coins, is very irregular, and without any apparent benefit.

It is to be regretted that any of our silver coins should contain minute fractions of a grain, when an entire grain of silver is only worth about one-fourth of one cent. The singular minuteness of fractions, usual in all mint regulations, is inconvenient in calculation, and unsuitable as a measure, where the value depends exclusively on its quan-

tity. It was wisely and appositely remarked by an eminent philosopher, that the "broken proportion of baser metals to silver, in the standard of the several mints, seems to have been introduced by the skill of men employed in coining, to keep that art (as all trades are called) a mystery, rather than for any use or necessity there was for such broken numbers."

The committee, in conclusion, beg leave to report the accompanying bill.

A.

HOUSE OF REPRESENTATIVES,

*Select Committee on Coins, January 5, 1831.*

SIR: I am instructed by the Select Committee on Coins to enclose for your consideration a copy of the resolution of the House of Representatives of the 23d ultimo, and to ask the favor of your communicating to them information on the following points:

1st. What has been the result of the experience of the director of the mint, in regard to a comparative estimate of silver dollars, issued by Spain, or its American provinces, and those subsequently coined by the new Governments in those provinces, as to fineness, weight, and workmanship?

2d. Has any thing occurred in the course of his investigations, rendering it necessary to vary the statements which he furnished to the President of the United States, in December, 1826, of the average result of numerous assays of dollars of the new American States, or of five franc pieces of France?

3d. Are Spanish American dollars, or those of the new States, or five franc pieces, frequently deposited, and in considerable amounts, for coinage? And does the return in American coin realize the value estimated in the report of assays, yielding to the depositor on the two former a gain, by tale, of four to seven mills each? Or what is the general or average result?

4th. What is found to be the degree of fineness of Plata Pina, and also of other silver bullion, usually imported from Mexico and South America?

5th. What have been the relative proportions of silver bullion, and of coin, (distinguishing old or defaced from new, or coins of full weight,) annually received at the mint, from 1816 to 1830, inclusive? And what quantity of silver coin, distinguishing the denominations, has been minted yearly during that period?

6th. What is the average amount of loss in coinage upon the estimated value by assay of silver bullion or coin, to the depositor and to the mint respectively?

7th. Is the loss thus accruing upon bullion influenced by the relative fineness of the metal, or is it greater upon old or new coins? And what is the amount per cent. upon each denomination?

8th. What is the average expense (including and distinguishing the amount of loss sustained by the mint) of coining half dollars? And does the aggregate cost vary, and to what extent, when manufactured from bullion or coin?

9th. What number of half dollars can be coined monthly at the mint, when at full work?

10th. What quantity of the like work will the new mint probably execute? And when is it expected to commence operations?

11th. What are the relative quantities of dollars and half dollars that can be coined in an equal period of time? And what is the amount of aggregate expense respectively?

12th. Assuming the experience of recent years as the basis for estimating the probable extent of coinage of all descriptions, within what time, from the receipt of bullion or coin, might the mint undertake to stipulate with the depositor for the delivery of coin when the new establishment is completed?

13th. How many days usually elapse before a mint certificate is issued? And would it be convenient and practicable to fix a certain and short period for rendering these receipts, without reference to the quantity of bullion or coin deposited?

14th. What is the rate or discount at which the banks in Philadelphia generally cash mint certificates?

15th. Does the assayer melt the entire mass of metal or coin deposited before he puts it to the test, or is the estimate of purity made upon an assay of a small portion of the quantity? And if so, is it found generally, in completing the refining, that the result corresponds or disagrees with the original estimate?

16th. Is the mode of assaying silver at the mint invariable? And if so, are the results uniform, or are important variations occasionally experienced in testing similar mixtures of metal? What is the mean heat in fusion? What is the proportion of lead to fine metal? Are the cupels of the ordinary shape, or formed with high sides?

17th. Have any experiments been made at the mint, testing the fineness of silver by what is termed the humid mode, precipitating a quantity of silver (previously dissolved in nitric acid) in a preparation of water and marine salt?

18th. The Secretary of the Treasury will oblige the committee by causing assays to be executed with the greatest accuracy, and with all convenient despatch, of nine whole and nine half dollars, coined at the mint, and taken indiscriminately from a mass of recent issues, and also of nine dollars lately minted in Mexico, and in Peru, during the same year, and also of nine five franc pieces of full weight, the operation to be performed on one-third part of each denomination of these coins, at the mean or ordinary temperature used, at a low heat, and also at an elevated temperature; and, in one of each of these three distinct operations, the quantity of lead used is to be precisely one-third of the weight of fine silver.

The committee request your opinion as to the expediency, in the existing state of our currency, of making the silver dollars of the late Spanish possessions in America, and five franc pieces of France, legal tenders in payments, according to our standard; and they will feel obliged by any suggestions which you may think it advisable to present as to the propriety or utility of additional regulations for the government of the mint, in respect to minting foreign coins, when of full weight and standard fineness, as well as to the practicability or advantage of the Treasury assuming the responsibility of disbursing promptly the amount of all deposits of bullion at the mint, at the average or current rate of discount upon mint certificates.

I have the honor to be, with great respect, your obedient servant,

CAMPBELL P. WHITE.

HON. S. D. INGHAM, *Secretary of the Treasury.*

B.

TREASURY DEPARTMENT, *February, 1831.*

SIR: I have the honor to enclose you two letters from the director of the mint, in answer to the inquiries propounded in your letters of the 5th and 14th January. The considerations, which seem entitled to weight in determining the propriety of making Mexican dollars and five franc pieces a legal tender, are so fully presented by the director of the mint, that there appears to be but little to add. I do not perceive any injury that can arise from admitting both these coins as a tender for a limited time, provided it be done at such weight as will clearly make it the interest of all who hold them to cause them to be coined. The director of the mint has estimated the cost of coinage to the holder of bullion at about one per cent. The foreign coins intended to be made a tender, should of course contain an excess of metal over the legal value, which would

somewhat more than remunerate for this loss, as an inducement to send them to the mint.

I beg leave to observe, in connexion with the various matters referred to your committee, that, in the report made to the Senate in 1830, on the relative value of gold and silver, the ratio of 1 to 15.5.8 was recommended as the most suitable to be established in the coin. It has since been suggested from a highly respectable source, that the ratio of 1 to 15.5769 might be preferable, on account of its rendering the ratio in the standard metal 1 to 16, whereby the coins could be used as weights for each other, one silver dollar being made thereby equal to sixteen gold dollars. At the first view, this effect appeared so desirable as to justify a corresponding modification in the ratio to secure it; but, upon further reflection, it appears to me, that coined pieces, subject to continual change by attrition, cannot be depended upon as standards of weight, and more especially as the small silver pieces upon this plan must be chiefly used to weigh gold coins. The former, of course soon becoming light, will be bad standards to weigh gold with, and, so far as they might be relied upon for that purpose, would tend to encourage the circulation of light gold coins.

Another modification has occurred to me, which is not liable to these objections, and has all the simplicity which could be desired. If the standard for gold and silver coins be established at 9-10 fine, 1-10 alloy, and the ratio of 1 to 15.5.8 in the pure metals be adopted, the eagle will weigh 237½ grains pure, and 264 grains standard, and the silver dollar will weigh 371½ grains pure, and 412½ standard, which will render the weight of the eagle and its parts in whole grains, and also that of the dollar and its parts in grains and binal divisions thereof.

The adoption of 9-10 fine for the standard will also be attended with some advantages, whenever it may be necessary to ascertain the value of the coins by weight. The more simple this intricate subject can be made, the greater number of persons will be protected from the skill of the few. The present standard for our silver coins of 1485-1664 is peculiarly exceptionable on this account; and as there is, I believe, no doubt but the mixture of 9-10 fine, and 1-10 alloy, will make as durable a coin as any other, there seems to be really no objection whatever to such a modification. I need scarcely add, that, in all the changes I have suggested in the report on the relative values of the metal, or elsewhere, the present weight of the fine silver in the dollar is not intended to be changed, or its intrinsic value affected in the slightest degree. When the weight of the dollar was fixed at 416 grains standard, it was probably intended to correspond as nearly as possible with the Spanish dollar, then almost the only coin in circulation. That reason is not now entitled to much, if any, weight, as the proportion of Spanish dollars to United States' is small, and, when the increased power of the mint takes effect, must daily diminish.

I take the occasion further to remark that the ratio of 1 to 15.5.8 renders the pound sterling \$4 75½; but as the intrinsic value of the pound sterling in silver dollars must depend on the market value of the fine silver contained in a dollar, it is not important that the legal par of exchange should conform to the regulation of the relative value of the metals in the coins. It would, in fact, be more convenient to make the legal par conform to the market value of the metal in which the standard of value in the United States is determined; because, in that case, there would be no difference between the nominal and the real par. The relative value of gold and silver in the market, as heretofore ascertained, is very near 1 to 15.8. The pound sterling will, therefore, at real par, be worth \$4 80; and if the legal par were to be changed, the pound sterling should be estimated at that sum, which is in fact its present true value, as estimated in all operations of exchange with England. And if it were so fixed by law,

it would simplify these operations materially; besides furnishing a most convenient mode for computing exchanges with Britain: 240 pence (pound sterling) being equal to 480 cents; 1 penny sterling is equal to 2 cents.

But to alter the legal par from \$4 44 to \$4 80 for the pound sterling, would increase the invoice value of importation from England about 8 per cent. The change ought not, therefore, to be made, without full consideration of its effect in this particular. In the mean time, however, there is no objection to changing the ratio of the pure metal in the coins. There can be little doubt but that the present ratio of 1 to 15 fixes gold altogether too low; and unless the United States' mines should furnish it in such abundance as to reduce the price throughout the world, it will not be possible to maintain gold to any extent in circulation, without raising its value in the coins. The ratio of 1 to 15 5-8, and standard of 9-10 fine, are recommended by so many considerations, as to require some special reason for adopting any other; but if that be deemed proper, I should strongly incline to prefer a lower rather than a higher valuation of the gold, for the reasons stated in the report before referred to. But on this point I can only observe that there is no reasonable ground now visible for apprehending an injurious exportation of the silver coin under the ratio proposed; and we may be the more encouraged in adopting it, by the decision of the Senate in favor of a considerably higher value for gold, viz. 15.9 to 1.

I have the honor to be, with great respect, your obedient servant,

S. D. INGHAM.

Hon. C. P. WHITE.

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C.

MINT OF THE UNITED STATES,  
Philadelphia, January 22, 1831.

SIR: In compliance with your request, under date of the 7th, accompanying a copy of the letter therein referred to, addressed to the department by a select committee of the House of Representatives, I have now the honor to submit the information in my possession; on the several points presented by the committee, which I beg leave to refer to, numerically, in their order, without reciting them.

1st. The dollars issued by the new States of Mexico, Central America, and Peru, are equal in fineness and weight to those issued under the dominion of Spain. The Bolivian dollar, and that of La Plata, are probably equal to the foregoing, but are rare and little known at the mint. The Chilean dollar is of the same fineness as the above, but inferior thereto in weight, usually, by one grain each. All those coins exhibit, in general, a less careful workmanship than the ordinary Spanish dollar. The Colombian coin, improperly called a dollar, is far inferior to its denomination, both in fineness and weight.

2d. The statements communicated to the President, December 27, 1826, are not impaired by the results of subsequent assays, in regard to the fineness of the coins issued by the new American States. They are, however, found to weigh slightly less in recent deposits than those statements exhibit. This results partly from the increasing proportion of coins, somewhat diminished by wear, which enter now into all deposits of that description, and partly from the fact that our weights have been adjusted since that day by the standard troy pound designated in the act of Congress of May 19th, 1828, and have thereby become a little heavier. We have had so little experience in regard to the five franc pieces since 1826, that nothing can be usefully added, respecting coins, to the statements then made, except in regard to their weight, which will be effected in some degree by the considerations just mentioned. A few specimens of the issues of 1829 were tried in that year at your request, and their value found to be ninety-three cents four mills, as mentioned in my letter of

the 30th September, annexed to your report on the value of gold and silver.

3d. Spanish dollars, and those of the new Mexican States, especially Mexico, form a very considerable proportion of the deposits at the mint, as will appear by referring to table A, hereto annexed. The considerations mentioned under No. 2 tend to render the result less favorable to the depositors than the statements before alluded to would indicate. The average gain on Mexican dollars, as now received, may be estimated at from four to five mills each.

In regard to the Spanish dollar, our experience within the past year, and especially in recent deposits, has been conspicuously at variance with the statements of 1826. Several deposits of large sums have been found to afford a very trivial gain on recoinage. This is due wholly to a deficit in weight not exhibited at the mint in any former year, and indicating that a considerable proportion of the Spanish dollars remaining in the United States are the residue of parcels from which the most perfect coins have been selected. The effect of this, added to the suspension of new emissions, by which their average weight could be partially sustained, must render such results in relation to deposits of the Spanish dollar frequent hereafter. A deposit of these coins, amounting to \$170,000, weighed on the 13th instant, is a further illustration of this fact—the gain being only nine-tenths of a mill per dollar.

Five franc pieces are not deposited in such quantities as to afford data for an average in regard to them. No deposit of this coin, meriting notice, has been made in recent years.

4th. Of the amount of bullion received within the period embraced by table A, and exhibited in the first column, above one-tenth part consisted of Plata Pina. This term is applied to silver collected by the aid of mercury, and brought to the mint without having been melted. The average value of this form of bullion, when reduced to a condition suitable for assaying, may be stated at \$1 25 per ounce troy, being about eight and one-third per cent. above the standard value of our silver coins. It is to be noted, however, that Plata Pina is subjected to melting before it is assayed, and in this process is diminished, on an average, about three per cent. in weight, by the dissipation of some remains of mercury, and of humidity absorbed by the porous quality of this form of bullion, as also the separation of other extraneous matters occasionally found therein; so that, in this condition of its ordinary delivery at the mint, its value may be estimated at about five and one-third per cent. above its weight in silver coins. Bullion of other descriptions, on an average of the whole amount embraced in the table, is found to be worth about \$1 21 cents per ounce, being about five per cent. above the value of standard silver. It is proper to state, that all silver, not in the form of coin, is in this arrangement denominated bullion, which thus includes a proportion of plate. The great mass of it, however, consists of silver which has been melted only, but not wrought in any manner.

5th. Table A exhibits the proportions of silver bullion and coin received at the mint, and also the amount of the several denominations of silver coins issued annually, from 1815 to 1830, inclusive. No separation is made of old and defaced from new and perfect coins. They are all received by weight as bullion. In the column of various coins, a large amount of irregular coins of Spanish America is embraced, called hammered and cast dollars; also, all the European coins, of which, except the five franc pieces, the amount is inconsiderable; and of these, less than two hundred thousand dollars are to be found separately deposited, within the period assumed. The column denominated Mexican dollars embraces also that of Central America, Peru, and Chili, which are generally deposited with the Mexican, but constitute an inconsiderable proportion of the amount under this head.



6th. The average loss by wastage on silver coinage may be stated at the fourth of one per cent. on the amount coined. The last four years give a small fraction less. This is borne by the United States; the depositor receiving in coins, agreeably to law, all the fine metal he brings, and without charge if the bullion be of standard quality. If it be above standard, the depositor is charged for the requisite alloy, and, if below standard, he is charged with the expense of the materials required for refining.

7th. The wastage is not influenced by the character of the bullion as to fineness, unless it be such as to require refining. In this operation there must be some loss, and all the processes by which other bullion is exposed to loss are subsequently to be passed through. The waste on refining will be in some proportion to the degree of baseness, but the ratio has not been determined. The wastage is ascertained only at the end of the year. Very few deposits of coins require to be refined. They are among the deposits, therefore, liable to the least wastage, and there is no appreciable difference, in this respect, between new and old coins.

8th. The expense of the coinage of silver is necessarily combined with that of gold. On an average, however, of the years 1826 and 1828, inclusive, in which the coinage of gold was inconsiderable, and may, therefore, in a general estimate, be disregarded, the expense, excluding wastage, it appears, may be stated at one per cent., with a very near approximation to exactness—the wastage, as before mentioned, being the fourth of one per cent., and making the whole expense for that period about one and a quarter per cent., which may be considered as the average for a silver coinage of about \$2,300,000 yearly. This per centage of expenditure will diminish with the amount of issues, a portion of the annual charges of the mint being fixed. The gradations of reduction cannot, however, be now determined, but it is believed that the expense on a coinage of four millions of dollars may be effected at something less than one per cent., including wastage.

There is no apparent difference in expense between deposits of the ordinary character of bullion, and those of foreign coins usually received at the mint. Both unwrought bullion and coins, which require to be melted before assaying, are to that extent more expensive to the United States than deposits in which this may be dispensed with, the materials and labor thus required being a part of the general expenses of the mint; but the difference eludes notice by its minuteness, when singly designated.

9th. Our present force is adequate to the coinage of six hundred thousand half dollars monthly. This result will be in some measure affected by the attention given to the smaller denominations, but so that the amount of the year's coinage will accord nearly with the above. This is exclusive of gold, the amount of which, if unusually large, will somewhat impede the silver coinage.

10th. The new mint will be competent, no doubt, to the coinage of ten millions, in due proportions, of the different denominations of our coins, if bullion be regularly supplied. Its utmost power I would not now venture to indicate. The coinage will, it is hoped, commence as early as August next. The fourth of July was designated as the time, when the corner stone was laid; but this, I apprehend, cannot be accomplished. The establishment will not probably be in readiness for vigorous operation till near the close of the present year. It is not relied on to promote the issues of this year more than will be equivalent to the retardation of a removal.

11th. Three thousand dollars, in dollars, most probably more, may be coined in the same time as two thousand in half dollars, with an equal number of presses; and the annual expense, wastage excepted, would be about the same. The wastage per cent. on dollars would be less than on the lower denominations, but the difference would be unimportant between dollars and half dollars.

12th. It is anticipated that the demand for coinage may be met by the new mint, with a delay rarely exceeding twenty days. Prompt payment, as soon as the value shall have been ascertained, will, it is supposed, be practicable for all deposits of moderate amount.

13th. The value of a deposit requiring only a single assay is generally ascertained, and a certificate issued in twenty-four hours. If there are several parcels, and especially if they require previous melting, the time is extended to two or three days; and if the number be large, and also require melting, the delay will occasionally extend to four or five days.

14th. The banks generally cash mint certificates at a deduction of the half of one per cent., if the coinage is not apprehended to be very remote: the Bank of the United States, without regard to the interval to elapse before coinage, receives mint certificates at that reduction.

15th. The assayer takes a small piece from each bar or separate mass of bullion, and estimates the whole value from the assay of that piece. The result, in regard to the mass generally, confirms the correctness of the estimate deduced from the assay thus made. In a given instance this will be, occasionally, incorrect; on an average, however, it will be found liable to no important failure. In the process, now frequent at the mint, of parting gold and silver, the small assay is tested by an actual analysis of the whole mass; permitting the two metals to be separately weighed. This is a happy experiment of the correctness of the assay, and the accordance with it is generally satisfactory. It may be remarked that the purity of our coins is not dependent wholly on the assay of bullion or foreign coins when deposited; all ingots prepared therefrom for coinage are, before delivery to the chief coiner, assayed again, and returned to the melting pot when found to require it.

Foreign coins of well established character, when deposited, are estimated on their known fineness, the assay being from time to time employed to ascertain their uniformity in this respect. This is particularly convenient and almost indispensable in our present establishment: the delay of melting large deposits of coins would be sensibly felt in the business of the year. In the new mint this difficulty will be removed, and, without retarding the ordinary operations, coins can be very generally melted before assaying.

16th. The mode of assaying hitherto pursued for silver has been that of cupellation. It is not perfectly constant in its results. A liability to errors amounting to the half of one per cent. is well known to be involved in the process, if the ordinary directions for conducting it are relied on, without any corrective of its irregularities. This liability is, however, very much restricted by introducing into the muffle, along with the assays in question, another piece of determinate standard, and near the fineness of the metal tried. The causes which operated to render the assay incorrect, extend their influence to the proof piece, and afford the measure of the corrections to be applied in the case—not a perfect, but a valuable correction.

The assayer of the mint has acquired, by long experience, a facility in judging of the condition of his muffle, which, frequently confirmed by the employment of the proof piece, renders his results more constant and exact than are usually obtained, I apprehend, from this process.

The heat employed is not determined by any form of pyrometer. It is, during the early part of the process, insufficient to sustain fine silver in a state of fusion. Towards the close, the heat is excited as the alloy is dissipated, so as to keep the silver fused when it becomes fine, though it would not, during the process, melt fine silver. This appears to be the desirable point of temperature. At a lower heat, the assay would become fixed and constant before it would become fine, and the process thus be defeated. The eye of the assayer judges when the silver

has become divested of its alloy. Too high a temperature urges on the process, and wastes a portion of the silver.

The difficulty of measuring high degrees of heat accurately, occasions wide discrepancies in the temperature assigned by different authorities as the melting point of silver. It is probable that the final temperature of a successful assay may be about 4,000 degrees of Fahrenheit.

The proportion of lead to fine silver, in our ordinary assays, is about seven grains of lead to one of silver. The common form of cupel is employed, a shallow cup.

No silver assays have been made here in the humid way. The subject having, however, attracted the attention of foreign assayers and chemists, and the probability being great that they may be led to select this method, under some modification, in preference to cupellation, a series of experiments will be considered worthy of attention with us, though the practice before mentioned, of recurring frequently to a proof piece, renders us less sensible of the necessity of a change in this regard. A facile process in the humid way would, however, be decidedly preferable.

18th. The assays requested have been completed, and the results thereof will be seen in table B. In regard to a particular experiment, of performing a part of those assays with a portion of lead, exactly one-third of the fine silver, the suggestion has been exactly complied with. This quantity of lead forms, however, no envelope for the metal tried. An assay piece, thus exposed, was uniformly reduced about five pennyweights below those enveloped in the usual form with lead, and placed in the same muffle. After three trials, with similar results, the experiment was discontinued, as it somewhat interfered with the equal arrangement of the other assay pieces.

Nine pieces of each of the coins mentioned by the committee, taken without selection, except as to dates, the latest being sought for, were severally divided into three sections. Assay pieces were made from each section of the same coin, and exposed in the same muffle, successively, to the several grades of temperature. The result given under each degree of temperature in the table, is, therefore, the average of three assays, thus made, of three different specimens of the same coin.

In all cases, the same coin was experimented on successively, through the different grades of heat, without interruption, the heat being further raised for each succeeding experiment.

The proof piece, of the fineness stated, was always introduced along with the assay piece. The variable effect on this proof, under a temperature intended to be the same, indicates the difficulty of adjusting this point, and the irregularities of result which this uncertainty of temperature involves. In the low and medium grade of temperature, which may be considered as the extreme limits of our ordinary assay heat, the highest error of the proof piece, from its actual fineness, it appears, is fifteen grains in excess. This is an error of fifteen grains fine silver in the troy pound of five thousand seven hundred and sixty grains standard, being a fraction over the fourth of one per cent. The assay piece, in this case, without the proof to correct it, would have given an enormous result to that extent.

The average of the low and medium temperatures, it appears, is very nearly true in the proof piece; the greatest deviation from the fineness due to it, combining the two assays, scarcely exceeds two grains. The true state of the coins will, therefore, be but derived from a similar average. If this be applied to the dollar of the United States alone, taking care to correct the assays by the proof, this coin appears one and one-fourth grains in the pound too fine. Applied in the same manner to the half dollar, this coin appears 5.6-13 grains inferior. The mean is 4.3-13, or the one-fourteenth of one per cent. nearly. The same measure being applied to the five franc piece, this coin appears three grains and two-thirds in the pound

inferior to its standard, which is about the one-fifteenth of one per cent.

The result in regard to the Peruvian and Mexican dollars requires particular explanation. One section of the former of these coins gave constantly, in all temperatures, a degree of fineness higher, by nearly one and a half pennyweights, than the ordinary grade of that coin. In the Mexican, on the contrary, one section gave constantly a result about one pennyweight and eighteen grains inferior. In both descriptions, the other two sections gave results conformable to our ordinary experience. I have considered it best to report on both precisely as the facts occurred, without resorting to a change of specimens. There is not the smallest ground for supposing that either is any thing but an accidental variety. They exhibit strikingly the irregularities to which the ordinary assay is liable, if not cautiously conducted, and with a frequent reference to a proof standard. All the specimens, both of Peruvian and Mexican dollars, were of 1830, as were also the five franc pieces, except two of 1829, but equally perfect.

The inquiry respecting the expediency of making certain foreign coins a legal tender, is not, probably, intended to be addressed to me. I shall be excused, however, for expressing briefly that the condition of the Spanish dollar current at the present day renders its rejection probable, as a tender, and exposes those institutions which are liable to be called on for large payments to much embarrassment, while they may be well supplied with other dollars, worth more than their nominal value. The extension of the tender beyond the Mexican dollar will not, it is presumed, be necessary. That coin abounds in our country to an extent, probably, twofold the amount of all the other dollars of the new American States. It has become familiar to us, and is decidedly of more intrinsic value than the Spanish dollar has been for the last twenty years. In two or three years, so many of the Mexican dollars, which are profitable for coinage, will reach the mint, that the issues therefrom will place our currency beyond the reach of further embarrassment.

The amount of our own coins now in the United States cannot much exceed seventeen millions of dollars. This may be expected to be doubled in three years after the completion of the new mint. It could be much more rapidly done, if bullion should be abundantly and regularly supplied; but time will be required to solicit those coins from their distant position to the mint, unless the Government should adopt the policy of supplying bullion by a direct operation.

If the Mexican dollar be made a legal tender, it is presumed it will be in the same terms as those used in relation to the Spanish dollar, viz. at one hundred cents each, provided the weight thereof be not less than seventeen pennyweights and seven grains. There will thus be a sufficient inducement of profit on their coinage to compensate the banks for presenting them at the mint. They will be worth from four to five mills above their legal valuation.

The five franc pieces associate so inconveniently with our decimal denominations, that they have never been a popular coin. If, however, it should be deemed necessary to make them a legal tender again for a limited time, it is proper to observe, that the law by which they were formerly made so, involves an incongruity. They were made a legal tender at one dollar and sixteen cents per ounce, and also at ninety-three cents and three mills each, provided their weight should not be less than sixteen pennyweights and two grains. They never weigh this. It is above their weight when issued from the mint. It would seem judicious to have an inducement for the recoining of five franc pieces, nearly equivalent to that of the Mexican dollar. The valuation of one dollar and sixteen cents per ounce will have this effect, their value being very nearly \$1 16.4 per ounce. If made a tender by tale at

ninety-three cents, provided their weight be not less than sixteen pennyweights and one grain, a similar inducement would remain: the five franc piece of sixteen pennyweights and one grain is worth ninety-three cents and three mills and one-third.

I may be permitted to say, in regard to further regulations for the mint, that it would be desirable to defer the subject until next session. There are various points which it is wished to submit, at that time, to the consideration of Congress, for the improvement of the institution. The whole system of laws in regard to it, which are now distributed through the various volumes of the acts of Congress, would be advantageous if digested into one act, with emendations in various particulars. In the interim, a series of careful experiments will be made, which is already commenced, on the subject of the humid assay for silver; the result of which can be usefully compared with those obtained by the measures now in train in Europe.

The payment of deposits on behalf of the treasury at the prevailing deduction, if not left optional with the depositor to accept or decline, would greatly restrict the amount of our deposits of foreign coins. The banks are the chief depositors of these; to them prompt payment is of no great moment, and the gain on coinage a prevailing inducement. The deduction would absorb this gain. A regulation on this point is among the subjects entitled to careful regard, when the whole system is taken up for improvement.

I have the honor to be, with great respect, your obedient servant,

SAMUEL MOORE.

HON. S. D. INGHAM, *Secretary of the Treasury.*

—  
D.

MINT OF THE UNITED STATES,  
*Philadelphia, January 28, 1831.*

SIR: The information requested in your letter of the 15th, received on the 20th, in regard to the wastage, deposit, and expenses on the coinage of gold and silver; the charges on each metal separately; excluding, but stating the gain on copper for each year since 1815; and also the expenditure on the new mint, will be found in the annexed table, except the particular last mentioned.

The aggregate amount of deposits and coinage of gold and silver is given for each year of the period named, with the aggregate expense thereon, excluding wastage; the annual wastage on both metals, jointly, being also given for the whole period.

A specification of the gold and silver coinage, with the wastage on each, severally, is given only for the last seven years, beginning with 1824; the purpose of comparison, it has been believed, would be satisfactorily attained without extending the analysis further. This will be done, however, with as little delay as may be, if desired. Recent years, it may be remarked, being those of the most abundant coinage, offer the most instructive data.

The irregularity of the proportion of expenditure to coinage occasionally observed, is to be explained by the circumstance, that, within certain years, other than the ordinary expenses were incurred, such as the erection or repair of some building, or the construction of new machinery.

The expenses stated are those sustained by the United States; those paid by depositors, for alloy, refining, &c. when required, are not included.

The expenses of the coinage of gold and silver are unavoidably combined in our accounts, so that the proportion due to each cannot be specified. Our gold coinage has generally been too small to be felt very sensibly in the expenses of the year. It is believed that the expenses of a coinage of three millions of dollars in gold, wastage excepted, would not exceed one-half of one per cent., and

that the addition of two millions more would not add more than one-tenth of one per cent. on the additional coinage, wastage excepted. The coinage of three millions in silver, in due proportions, of the various denominations of our coin, may be estimated to cost, wastage excepted, about five-sixths of one per cent., and an addition of two millions more would not, probably, cost more than one-third of one per cent., wastage excepted, on the additional coinage.

There is no charge on the coinage either of gold or silver. Bullion above standard is alloyed, and that below standard is refined, at the expense of the depositor. These preliminary operations place the deposit on a par with one of standard fineness, the coinage of which is free, the depositor receiving in coins the full weight of the standard bullion deposited. This is the inducement by which bullion is solicited to the mint. The United States provides neither gold nor silver for coinage.

The per centage of expense diminishes as the amount coined becomes greater—certain expenses of the establishment being fixed. The coinage of gold and silver for the whole sixteen years is nearly twenty-four millions, or about one and a half millions annually; the expense of which, excluding wastage, will be found to be one and a half per cent. very nearly. The coinage of the last seven years is \$15,806,270 50, or \$2,258,000, in round numbers, yearly; and the expense thereon, it appears, is one per cent. and a minute fraction. The average coinage of the last two years is \$2,714,400, and the expense, excluding wastage, is eighty-nine hundredths of one per cent.

The aggregate wastage of the whole period of sixteen years is twenty-seven and a half hundredths of one per cent. The wastage of the last seven years is twenty-four hundredths of one per cent., that of the silver being twenty-four and a half hundredths, and that of the gold nineteen and a half hundredths of one per cent.

In regard to wastage, it is further to be observed, that a portion of this is from time to time recovered from the broken crucibles, &c. which are carefully reserved for this purpose to a convenient period. During the suspension of business consequent on the late war, the amount of \$2,859 39 was thus recovered, and passed to the credit of the United States. Means will be provided in the new mint for triturating the fragments of crucibles and other refuse, and making the recoveries alluded to yearly.

The gain on copper, as stated in the table, is subject to a deduction for the expense of distributing copper coins to all parts of the United States. The amount thus to be deducted may be estimated at about five per cent. on the profit exhibited, thus reducing the whole gain on copper for the last sixteen years to about \$86,000. The gain is stated on the books of the mint when the copper for coinage is received. The coinage and distribution, however, may be partially or wholly in the ensuing year. The expense of coining copper is embraced in that of gold and silver.

The profit on copper, estimating from the increased demand for cents, will, probably, in the present year, and on an average of future years, be not less than \$10,000, diminishing to that extent the effective charge of the mint establishment.

The sum of the expenditure on the new mint, including the site, is \$108,667 64. A few accounts not yet rendered, it is conjectured, may amount to nearly \$1,500 in addition to the above.

Very respectfully, your obedient servant,  
SAMUEL MOORE.

HON. S. D. INGHAM, *Secretary of the Treasury.*

—  
*A bill regulating the value of certain foreign silver coins within the United States.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That,*

from and after the passage of this act, and for three years thereafter, and no longer, the following silver coins shall pass current as money within the United States, and be a legal tender, by weight, for the payment of all debts and demands, at the rates following, that is to say: The dollars of Mexico, Peru, Chili, Central America, and La Plata, and those restamped in Brazil, of the value of nine hundred and sixty reas, when of not less fineness than ten ounces fifteen pennyweights and twelve grains of pure silver in the troy pound of twelve ounces of standard silver, at one hundred and sixteen cents and one-tenth of a cent per ounce; and the five franc pieces of France, when of not less fineness than ten ounces and sixteen pennyweights in twelve ounces troy of standard silver, at one hundred and sixteen cents and four-tenths of a cent per ounce: *Provided, and it is hereby declared,* That such tender by weight shall not extend to the payment of any debt or demand for a less sum than one hundred dollars.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of the Treasury to cause assays of the aforesaid silver coins, made current by this act, to be had at the mint of the United States, at least once in every year, and to make report of the result thereof to Congress.

### GOLD COINS.

HOUSE OF REPRESENTATIVES, FEBRUARY 22, 1831.

Mr. WHITE, of New York, from the select committee on Coins, to whom was referred the bill from the Senate, entitled "An act concerning the gold coins of the United States," reported:

That the subject presented to them involves, in its consequences, the highest attribute of sovereignty, the delicate relations which subsist between debtor and creditor, the important interests of industry, and ultimately the value of all property; and emanating from a source entitled to great respect, they have given to it the most mature examination; but finding themselves obliged to dissent from the conclusions at which the Senate have arrived, they now submit the result of their inquiry to the consideration of the House.

The bill from the Senate proposes to alter the standard which has regulated the measure of contracts for nearly four years. The change intended to be effected is to raise the relative value of gold from 1 for 15, to 1 for 15.9 of silver, equivalent to an alteration of six per centum in the existing standard.

It was judiciously remarked by the distinguished and enlightened statesman who presided over the Treasury Department when the present regulation was adopted by Congress, that "there is scarcely any point in the economy of national affairs of greater moment than the uniform preservation of the intrinsic value of the money unit; on this the security and steady value of property essentially depend."

The committee, duly impressed with the wisdom of that sentiment, feel it incumbent on them to examine, with care and deliberation, the reasons adduced in support of such an important alteration in a regulation of great public interest.

It is alleged in the report of the committee of the Senate—

1st. That "this proportion (1 to 15) was too low a valuation of gold in the year 1792, and much too low a valuation of gold, in relation to silver, at this time."

2d. That, "during the last three hundred years, gold has, with some temporary exceptions, been gradually advancing in value. During the last twenty years, the enhancement of gold in respect to silver has been quite as great as it had ever before been during any equal period; and gold still continues to rise."

3d. That "the general course of our exchanges with Europe is against us; and when remittances cannot be ad-

vantageously made by bills, gold is sent to Europe, and especially to Great Britain, so long as gold is not evidently too dear in this country, in comparison with silver. But, in order that both gold and silver should circulate as money, it is necessary that demands for exportation should fall upon both metals, that when a demand for exportation occurs, it should, in general, be as profitable to export one of them as the other; and the relative valuation which will ensure this object, is that which exists when both metals are, or may be, exported with equal profit."

4th. That "much more of the two metals is now coined upon the basis that gold is in value to silver as sixteen to one, than according to any other proportion. If it is expedient to conform our ratio to the existing proportion of any other country, it must be expedient to adopt that proportion which prevails most widely, and the ratio of sixteen to one is now far the most extensive example. A rule so extensive is entitled to respect; but the practical operation of the rule is much more instructive, since it shows that this relative valuation of the two metals secures their concurrent circulation in coins in a very large part of the world."

5th. That "our public coinage of gold is now wholly without any public benefit. If we will not rectify the legal proportion between the coins of the two metals, we ought to abolish the coinage of gold, save the useless expense, and leave gold to be treated like other metals not coined as money."

The recommendations suggested, and the advantages anticipated, are—

1st. That "our system of money, established in the year 1792, fully adopts the principle, that it is expedient to coin and use both metals as money; and such has always been the opinion of the people of the United States."

2d. That "each of the two metals is peculiarly convenient for purposes to which the other is not well adapted. Silver is divisible into pieces of small weight and small value, and is convenient for payments of moderate amount, but is very inconvenient when large sums are paid or transported. And these different advantages cannot be enjoyed without the use of both metals."

3d. "Where the circulating coins are both gold and silver, paper money is less used than it is where all the coins are of silver; and the currency of gold coins in our country will tend to repress this constant tendency to excess of paper money. Our money now in use is bank notes and silver. Bank notes are pressed into every channel of circulation; though no man is legally bound to receive them, they are generally received. So great is the amount of bank notes in circulation, so widely are those notes diffused through our extensive country, and so much is silver banished from circulation, that the option to demand silver is not within the reach of the great body of the people."

"The creditor, and especially the poor man, who can neither wait for payment, nor go to a bank to demand silver, accepts the bank notes which are offered to him, not because he prefers them to silver, but, in a multitude of cases, because he is, in effect, constrained to accept them or nothing. One of many causes which swell this torrent, and impose upon the people a species of necessity to use paper money, is the want of gold coins. The end of coining the two metals is, that they may circulate together; that every person who has coins of either silver or gold, may easily exchange them for coins of the other metal, and that the people may enjoy the advantage of using either species of coins, according to convenience or pleasure."

4th. "Bank notes are frequently received in preference to silver, when gold coins would be more convenient or desirable than bank notes. In such cases, gold would be used if it could be procured, and it should be attainable. To refuse to coin gold for the sake of paper money, or

because paper money occupies a place which gold would fill, would be a mischievous error. A bad state of the coins is a great evil; but when such a state of the coins is continued for the purpose of promoting the use of paper money, the end is pernicious, and the means are an abuse of power. Our banks have the right to pay their notes in silver, and they ought not also to enjoy the advantage of an entire banishment of gold coins from the United States. There will surely be sufficient scope for the circulation of bank notes, when the coins which they do not expel from use shall consist partly of both metals; and if it is the interest of the banks that we should have no gold coins, the public interest of the country is, that we should have coins of gold as well as coins of silver."

The regulation proposed will produce, if adopted, a very important alteration in the existing standard of value; and, as it has apparently originated from the views now detailed, which comprise a full consideration of the monetary system of the United States, the committee feel reluctantly compelled to undertake the investigation of an important, difficult, and intricate subject, upon which the most acute and enlightened intellects have disagreed.

This examination will necessarily involve the consideration of general principles, the standard of value, the practice of commercial nations, and a particular reference to the currency of the United States; which various and perplexing questions the committee will endeavor to discuss with all practicable brevity.

Gold and silver are the money of commerce—the merchandise for which all other commodities are freely exchanged by the general consent of mankind. They are the measure of value, and are universally received as the intrinsic equivalent in all exchanges. These precious metals were adopted, and are maintained, as the currency or money of the world, from their being less variable than other metals, and homogeneous in respect to durability and divisibility.

They are, however, exposed to two important variations.

1st. In reference to other commodities, if the mines become more or less productive, or from any cause that will alter the relative proportions which the gold and silver, used as money, bear to that of the aggregate amount, or real value of exchangeable commodities, money price being regulated by these respective proportions: and,

2d. The value of gold in respect to silver is very fluctuating.

Their relative values may vary with the amount of supply furnished by the mines respectively. It will change with the variations in the relative amount of labor expended on the production of these metals. If the quantity produced be appropriated to manufacturing purposes, and as currency, in different relative proportions, at different periods, an alteration in value will ensue; a great diminution, or an extensive increase of demand for either of the precious metals, arising from a change in the usual course of trade, or from an alteration in the circulating medium of a wealthy nation, will produce an important change in their relative value, whether silver be effected, as instanced in the Asiatic trade; or gold, as we have sensibly experienced in our intercourse with England.

Silver, in reference to silver, is unchangeable, and equivalent to the like quantity of fine metal, in all times, and in all countries. It is, besides, universally current; and it is the instrument principally used as the money of commerce.

Gold possesses the same peculiar properties, although it is not so extensively used in effecting exchanges. Either of them are received freely as the money of the world; and each, in a state of purity, preserves its identity and immutability.

Gold and silver, used as a common standard, are, in the nature of things, subject to various and frequent fluctuations; while the regulation of the standard of value, in

either metal, is liable to variation only in reference to commodities.

Governments and political economists all agree in opinion as to the necessity or utility of a uniform measure. They, nevertheless, differ, as to the expediency of regulating the standard of value in one or both metals, although the nearer approach to invariableness, in the selection of one metal, is obvious and incontrovertible.

The bill under consideration contemplates such a regulation of the standard as will not only obviate prejudicial variations, but secure such "concurrent circulation in coins" of both metals, "that every person, who has coins of either silver or gold, may easily exchange them for coins of the other metal, and that the people may enjoy the advantage of using either species of coins, according to convenience or pleasure."

The committee would have the greatest pleasure in aiding with their most zealous efforts in the establishment of any regulations calculated to contribute to the convenience or gratification of the community, entertaining, however, serious doubts of the practicability of securing the desirable objects contemplated through the medium of legislative enactments. They think it expedient, as an evidence of their sincere desire to effect a satisfactory and impartial investigation, to note, briefly, the sentiments of some of the most distinguished and eminent writers.

General Hamilton, who was the founder of our present system, distinctly recognised the correctness of the position, that the single standard is the least variable measure, and he was inclined to select gold.

He states that the "inducement to such a preference (one metal) is to render the unit as little variable as possible, because on this depends the steady value of all contracts, and, in a certain sense, of all other property; and it is truly observed, that if the unit belong indiscriminately to both the metals, it is subject to all the fluctuations that happen in the relative value which they bear to each other; but the same reason would lead to annexing it to that particular one which is itself the least liable to variation, if there be, in this respect, any discernible difference between the two.

"Gold may, perhaps, in certain senses, be said to have greater stability than silver, as being of superior value. Less liberties have been taken with it in the regulations of other countries." He was finally of opinion that, "upon the whole, it seems to be most advisable, as has been observed, not to attach the unit exclusively to either of the metals, because this cannot be done effectively without destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise, which accordingly at different times has been proposed from different and very respectable quarters, but which would probably be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals, especially if care be taken to regulate the proportions between them with an eye to the average commercial value. To annul the use of either of the metals, is to abridge the quantity of circulating medium, and is liable to all the objections which arise from the comparison of the benefits of a full, with the evils of a scanty circulation."

Sir William Petty, in his posthumous work, published in 1691, is stated to be the first who suggested "that the coin which was to be the principal measure of property ought to be made of one metal only. Money is understood to be the uniform measure and rule for the value of all commodities; that one of the two precious metals is only a fit matter for money; and, as matters now stand, silver is the matter of money."

That profound philosopher, Mr. Locke, thus expresses himself: "I have spoken of silver coin alone, because that makes the money of account and measure of trade



all through the world: for all contracts are, I think, every where made, and accounts kept, in silver. I am sure they are so in England, and in the neighboring countries. Silver, therefore, and silver alone, is the measure of commerce. Two metals, gold and silver, cannot be the measure of commerce both together in any country, because the measure of commerce must be perpetually the same, invariable, and keeping the same proportion of value in all its parts. But so only one metal does, or can do, to itself. So silver is to silver, and gold to gold; but gold and silver change their value one to another: for, supposing them to be in value as sixteen to one now, perhaps the next month they may be as fifteen and three-fourths, or fifteen and seven-eighths to one; and one may as well make a measure to be used as a yard, whose parts lengthen and shorten, as a measure of trade of materials that have not always a settled, invariable measure to one another. One metal, therefore, alone, can be the money of account and contract in any country. The fittest for this use, of all others, is silver. Gold, though not the money of the world, and the measure of commerce, nor fit to be so, may, and ought to be coined, to ascertain its fineness and weight; and such coin may safely have a price as well as a stamp set upon it by public authority, so the value set be under the market price."

Lord Liverpool, who was master of the mint in England, and whose system of money is now in practical operation in that country, thus remarks: "Experience has proved, that when coins of two metals are made legal tenders at given rates, those who have any payments to make will prefer to discharge the debt or obligation by paying in that coin which is overrated; and in this manner, gold, being overrated, became the practical currency of England. In the reign of King William, by proclamation, gold guineas, worth but 20s. 8d., were made current at 21s., which, being 4d. more, or 1 19-31 per centum too high, made gold the principal measure or tender in payments." He was of opinion "that the money or coins of any country, which are to be the measure of property, can be made of one metal only;" and that gold was the fittest metal for a rich country like England. He proposed that "the new silver coins shall not be a legal tender for any sum exceeding the nominal value of the largest piece of gold coin in currency. This is the highest state of perfection to which any system of coinage can, in my opinion, be brought." He considered it necessary to exact a heavy seignorage on silver coin, to secure its permanency in circulation; and maintained that such an overvaluation would not prejudice prices. "When the silver coins were the principal measure of property, and were greatly defective, the price of all commodities rose in proportion; but since the gold coins are become the principal measure of property, though our silver coins are on an average as defective as they were before, (about  $\frac{1}{3}$ ), the price of commodities, even when purchased with silver coins, has not risen on account of the defect of these silver coins. The present defective silver coins continue to be paid and received at their nominal value, and according to the rate at which they can be exchanged for our gold coins; sometimes, when they are wanted for particular purposes, they are exchanged even at a premium above their nominal value."

He thought that prices of commodities were "influenced by a defect in that sort of coin only which is the principal measure of property, and in which our balances to foreign countries are regulated and paid."

Mr. Ricardo, who attained well-merited celebrity, in advertising to the English currency, observes: "It appears, then, that whilst each of the two metals was equally a legal tender for debts of any amount, we were subject to a constant change in the principal standard measure of value. It would sometimes be gold, sometimes silver, depending entirely on the variations in the relative value of

the two metals; and, at such times, the metal which was not the standard would be melted and withdrawn from circulation, as its value would be greater in bullion than in coin. This was an inconvenience which it was highly desirable should be remedied; but so slow is the progress of improvement, that, although it had been unanswerably demonstrated by Mr. Locke, and had been noticed by all writers on the subject of money since his day, a better system was never adopted till the last session of Parliament, when it was enacted that gold only should be a legal tender for any sum exceeding 42s."

A highly respectable authority, Mr. Gallatin, in his able letter to the Secretary of the Treasury, maintains the superiority of the double standard, and the practicability of keeping both metals in circulation. He instances France as the country "which affords the best and most easy means to ascertain the fact, as it is far the most wealthy country in which both gold and silver coins circulate simultaneously. During the thirteen last years, there has never been a premium on silver coins, and there has almost always been one on gold coins; but it is very rarely, and only for very short periods, that this premium on gold coins has ever fallen below one-fifth, or exceeded four-fifths per cent., and the average is about one-half rather below than above it. The relative value of gold to silver bullion is, therefore, fixed at the rate of 3,091.197, nearly equal to 15.69 to 1. Each metal is brought to the mint in greater or less quantities respectively, according to the fluctuations in their relative market value. But what proves that this ratio does not essentially differ from the true average market relative value, is, that the mint has been abundantly supplied with both for the last twenty-five years, the coinage of France being far greater than that of any other country."

"The present rate (of our gold standard) was the result of information clearly incorrect respecting the then relative value of gold and silver in Europe, which was represented as being at the rate of less than 15 to 1, when it was, in fact, 15.5 to 15.6 to 1. If gold coins are raised by law to their true value, they will not be exported so long as the exchange on London is not above  $1\frac{1}{2}$  per centum above the true par, or about  $8\frac{1}{2}$  per cent. nominal, as now calculated. Whenever the exchange is above that rate, there is no means to prevent the exportation; and as the general tendency of our exchanges with Europe is against us, this affords a reason why, in fixing the relative value of the two metals, gold may be a little overrated beyond the ratio deduced from the average premium on French gold coins in France. But this should be done cautiously, as there is always danger in going beyond what the well ascertained facts will warrant." Adverting to Spanish American coins, he observes, in respect to the various rates of premium on doubloons: "This affords no criterion whatever of the relative value of the two metals, as it is exclusively due to the varying demand for the Havana and South American markets, where, by internal regulations, the doubloon is rated never less than \$16, and generally at \$17. This arbitrary order drives, of course, silver from the market, and, without raising, actually, gold to that rate, has, nevertheless, a considerable effect on the price of that particular coin. As there is not in nature any permanent standard of value, it has been objected to the simultaneous circulation of the two metals as a legal tender, that, in addition to the fluctuations in the price of either gold or silver, if only one of the two was made the sole circulating medium, the fluctuations in their relative value increase the uncertainty of the standard. Great Britain, till the year 1797, when the suspension of cash payments took place, and all other nations to this day, have used the two metals simultaneously, without any practical injury, and to the great advantage of the community, though in many instances sufficient care had not been taken to assimilate the legal to the average market value

of the two metals—a fact so notorious, so universal, and so constant, is sufficient to prove that the objection, though the abstract reasoning on which it is founded is correct, can have no weight in practice."

In respect to the opinion that the English demand for gold, upon the resumption of specie payments, had suddenly influenced its relative value, it is elsewhere stated, that "any extraordinary demand from a particular country is met without difficulty, or sensibly affecting the price of the metal required." This decisive fact, (the premium in France on gold not having exceeded 1.5 to 1.2 per cent.) "also shows that it is erroneously that the exportation of American gold coins, which commenced in the year 1821, has been ascribed to that extraordinary demand. That exportation has been continued uninterruptedly after that cause had ceased to operate, and, as will be seen hereafter, is due to the alteration from that epoch in the rate of exchanges."

Mr. Tooke, an eminent writer, is inclined to doubt the correctness of the opinion, that the British demand increased the relative value of gold, and he remarks, "these circumstances, collectively," (diminution in the export of silver to Asia, and the emancipation of Spanish America,) "are likely to have increased the supply of silver, and give reason to expect that the fall in the price of silver arose from a relative increase of its quantity and consequent diminution of its value, rather than from a diminished quantity and increased value of gold." He admits, however, that "all information hitherto accessible relating to the proportion of the supply and demand of the precious metals, is vague, and insufficient to build any practical conclusion upon; and the only object of the arguments brought forward is to afford grounds for calling in question the opposite presumption, which, in my opinion, has been much too generally and hastily admitted."

Mr. Tooke thinks that England probably possessed twenty millions of pounds sterling of gold before 1797; the greater part of which, he calculates, would be forthcoming from the hiding places of the hoarders, or from the continent of Europe; "none (gold) being absolutely necessary (on the continent) as the standard or basis of their circulation, which is silver."

Mr. Baring, an eminent banker, and accustomed to pecuniary transactions of the most extensive and various nature, is an advocate of the double standard, in consideration of the peculiar circumstances of England. He asserts that, "if gold and silver were concurrent legal tenders at the old mint regulation, (1 to 15.2,) silver would at present be the practical standard, as the debtor always acquits himself in the cheapest metal he is enabled to do so by law. Gold was his cheapest payment previous to 1797, and, therefore, the practical standard of the country at that time; in consequence of subsequent variations in the price between gold and silver, silver would be so now. The practical currency may change from one metal to another in a short space of time; the fact of gold having been the practical tender in this country under the former system, and that silver would be so if that system continued, is a practical proof of it."

"It will vary with the variations in the relative value of the metals, however wisely you may adjust the difference. The variation in France is seldom above a tenth per cent.: it sometimes runs up to a quarter per cent.: it has been, I am told, something higher on particular occasions. A very slight difference of one-tenth or one-fourth per cent. would determine the use of one metal or another."

"There is no doubt that when this country (England) returned to payments in specie, supposing we wanted from fifteen to twenty millions of pounds, (of gold, for instance,) and that to that extent there was a demand on the rest of the world for gold, gold got an increased value from that circumstance."

"This country partially rejecting gold as its tender, the

effect would be to reduce to some extent the value of gold over the rest of the world."

One of his leading motives in recommending the incorporation of silver in the standard, appears to have been an impression, that it was "evident that the Bank, (of England) wishing to reinforce its supply of specie, can do so with infinitely increased facility, with the power of either drawing in gold or silver, than if it were confined to only one of the metals. The choice is already much; but the circumstance that silver is the practical standard of Europe, more than doubles the certainty and facility of procuring a supply."

The substance of Mr. Baring's evidence before the committee of the British Parliament, being subsequently submitted to the consideration of the Bank of England in four queries, the governor and directors of the bank, in part, thus reply.

"1st. Provided there be sufficient currency in the country for the small payments, there does not appear to the bank to be any advantage in the proposed addition of silver as a general legal tender, from the great difficulty of retaining gold as the bulk of the currency under such an arrangement."

"2d. It does not appear that it would afford to the bank any security against combinations to their prejudice, nor would it enable the bank more readily to rectify the foreign exchanges, nor to provide with less difficulty for periods of panic. Neither does it appear to the bank that it would facilitate their procuring, when necessary, supplies of gold from abroad."

"3d. The bank can see no advantage in reverting to the former system of making silver by weight a legal tender to any amount; and they are further of opinion, that a varying scale of value in any metal cannot be otherwise than prejudicial in its effects upon all contracts."

The Secretary of the Treasury, in his masterly and elaborate report to the Senate during the last session, "respecting the relative value of gold and silver, &c." remarks, in reference to the double standard, "that however exactly the proper equilibrium of values of gold and silver may be adjusted at the mint, the balance is likely to be disturbed by causes which can neither be anticipated nor controlled by political power." And, in the course of his able disquisition, he arrives at the apparently sound and rational conclusion, that the regulation of the measure of value in both metals is inherently defective, and requires to be remedied, and that "this remedy is to be found in the establishment of one standard measure of property only. The proposition that there can be but one standard, in fact is self-evident. The option of Governments charged with this duty, is, therefore, between having property measured sometimes by gold, sometimes by silver, and selecting that metal which is best adapted to the purpose for the only standard. Silver ought to be the standard measure of property in the United States, and maintained by mint regulations as the chief material for metallic currency."

Such discordancy of opinion amongst writers distinguished for profound and philosophical views, and practical knowledge of the subject under consideration, is perplexing and embarrassing.

The committee have endeavored to form a just and impartial estimate of the various principles respectively sustained; and they will now proceed to make some appropriate observations upon them, as general truths, and, also, in reference to the fitness of their application to the existing and peculiar circumstances of the United States.

Gold or silver is the money of commerce, and the measure of value. It is freely received every where as the equivalent in exchange for all other articles. It is, by general consent, the representative of value, the pledge cheerfully taken in fulfilment of bargains, because the receiver knows that he can with it purchase such things as

he desires. It is the instrument by which transfers can be most conveniently effected, but it is not the article really wanted.

Commodities are the things actually exchanged and required—provisions, clothing, materials for manufacture, or for other use. Money facilitates exchanges, but its value is in circulation. Commodities are valuable in exchange, and valuable, also, as useful or consumable necessities. The real value of these depends upon the quantity of labor expended upon their production, but not in any degree upon money price, or the quantity of gold or silver required to measure their nominal value, or to effect their exchange. This price or quantity is regulated by the productiveness of the mines, and by the relation which the portion of that product, pending in currency, bears to the aggregate amount of exchangeable merchandise.

Since the discovery of America, the increase of the precious metals has greatly exceeded the relative increase of commodities; gold and silver are estimated to have multiplied in a fourfold ratio.

Money has become so abundant that prices have risen greatly; the labor which was formerly exchanged for one dollar, will now purchase four silver dollars.

This change would seem to indicate a vast increase in the value of labor, and consequently of individual wealth, in the view of those who consider a great deal of money and riches as synonymous; yet it is not perceived in what respect this great increase of gold and silver has influenced the real value of useful commodities. It has sensibly altered the money price of every thing, and thereby diminished its convenience, as the instrument and measure of commerce, by rendering it more cumbrous, requiring four times the quantity or weight of gold or silver to measure the same value, and multiplying in the like ratio the number of coins, and the labor of counting them, without adding, in any manner, to their utility as money, or to their value as property. If one-half of the entire amount of gold and silver now in use was immediately to disappear, or as suddenly to be doubled in its quantity, the consequence would be grievous to debtors, or to creditors; but it is very evident that the real wealth of society would experience no change from either event. The productive power of industry would be neither increased nor diminished; nor would any alteration take place in the utility of its products.

Industry produces commodities, and frugality accumulates capital; but its real value does not depend upon its money value.

Where exchangeable merchandise abounds, gold and silver will be comparatively abundant. Hence, countries, rich in productions, will always have more money circulating than nations which produce fewer commodities. The possession of a large amount of money is the effect, but not the cause of wealth: yet a greater abundance of gold or silver, in rich States, being very visible, it has erroneously been viewed as the cause producing greater wealth; and various projects have been frequently suggested, or adopted, to bring into particular countries more than the natural supply of money, or to manufacture it from other materials than gold or silver. Distinguished statesmen have occasionally countenanced these suggestions; and the value which has been attached to a large supply of the precious metals has been evinced by inflicting severe penalties upon the exporters of gold or silver; in exhibiting indignation against, or questioning the patriotism of such traders as ship away money where its exportation was permitted, by a great solicitude to encourage intercourse with those countries which possess or distribute the produce of the mines; and in denying or questioning the advantage of trading with any nation which required gold or silver in exchange for its merchandise. It has been exhibited in an anxious desire to have the

standard of value regulated in both metals, lest the utility of either might be diminished on becoming a commodity, or under the apprehension that the rejection of either gold or silver as a legal tender would contract the field of supply, or inflict the evils of a scanty circulation.

The committee are of opinion that wealth consists in an abundance of necessities, conveniences, and luxuries; that lands, minerals, labor-saving machines, useful commodities, &c. &c. are the constituent parts of national wealth; and that its amount depends upon the skill and industry of its inhabitants.

Industrious and skilful nations will possess a large share of the gold and silver used as money in commerce; but that arises from the superior value of their exchangeable produce.

The value of money is, in an inverse ratio with its quantity, relatively dear or cheap, according to the proportion which the entire amount of gold and silver in circulation bears to the aggregate value of exchangeable commodities. The interest of every nation requires its just proportion of the money of the world; and if commerce was free and unrestrained, its operations would assuredly effect an equitable distribution.

The course is natural and obvious. Redundance raises prices, imports increase, or exports diminish; either consequence creates an adverse exchange; and the superfluous supply of money goes off to other nations, to liquidate balances. On the other hand, scarcity of money lowers prices, increases exports, or brings in money to buy cheap goods. In the nature of things, redundancy or scarcity must be temporary, as mercantile sagacity is ever active and vigilant to profit by the smallest variations in value; and, whilst pursuing gain, it prevents money from undulating greatly, or disadvantageously to the steady occupation of producers.

The correctness of the principle, that money will find its level in the great sea of commerce, unless obstructed by artificial mounds, erected by legislative or local regulations, was forcibly illustrated in the case of France in 1794-'5.

Statesmen of transcendent talents, Mr. Pitt and Mr. Burke, confidently anticipated a complete overthrow of the power of France, from the want of money to carry on warlike operations—the inevitable consequence, as they supposed, of the destruction of the assignat currency. Yet, what is the historical fact? The assignat bubble burst, inflicting, without doubt, a serious amount of individual distress, but the productive power of France being uninjured, and the products of its industry being real wealth, and valuable commodities in exchange. Gold and silver, which is the instrument of exchange, rushed into France in a powerful stream, filling speedily every channel of circulation with its proper, useful, and relative proportion of coin.

Instead of France, with her great wealth, being prostrated and in poverty, as was predicted by these great men, she quickly possessed more gold and silver than any nation in Europe—a result in strict accordance with well established principles in the monetary system.

France possessed a large supply, comparatively, of money, because she was in fact the richest nation in Europe, excepting England, who had forcibly driven gold and silver out of circulation, by substituting bank notes. Considering that these incontrovertible principles, in regard to gold or silver money, have been practically verified in the powerful and instructive example of France, it is truly surprising, that, in subsequent times, complaints should be made of the want of metallic coin, or of a particular kind of the precious metals.

It cannot be the interest of any country, if it were practicable, to possess a greater amount of the precious metals (which are costly merchandise) than its just proportion, because the value of gold or silver, as money, consists

altogether in its utility, as an instrument, for effecting exchanges, or for measuring the value of commodities. Its value being relative, and only in exchange, it does not appear to be an important consideration to any country, whether the instrument, which it thus uses as a labor-saving machine in barter, be composed of gold, or of silver, or of both metals.

The committee are induced to believe that every nation will possess its equitable and useful portion of the gold and silver used as money. If they do not repulse it from domestic circulation, by substituting a different medium of exchange, one metal may be selected, with a certain assurance of uniformly possessing, in the metal chosen, such proportion of the entire amount of the money of commerce as their exchangeable commodities bear to the total amount of merchandise produced.

If both metals are preferred, the like relative proportion of the aggregate amount of metallic currency will be possessed, subject to frequent changes from gold to silver, and vice versa, according to the variations in the relative value of these metals.

The currency of the commercial world consisting of gold as well as silver, it is apparently correct and rational to conclude, that the indiscriminate use of both metals must be convenient and advantageous to every community. There is, however, a material distinction between the money of commerce and the money of a particular State, which merits notice. Gold and silver circulate in general commerce as money; but whether they are tendered in new or defaced coins, of the standard of one mint, or a mixture of all mints, or in metal of every variety of form and purity, they are all viewed as bullion, and valued in foreign markets according to the quantity or weight of fine metal.

Whether a nation uses exclusively one metal for its internal trade, or establishes a legal value in both gold and silver, it has been ascertained by experience that one metal only will be the practical standard. Traders will usually find it their interest to carry to each country that description of metal which is the current or exclusive legal tender, because the former is always an overvalued metal, and the latter is of nearly invariable value. The operations of trade being incessant and universal, the value of gold or silver is tested by the estimate of each nation; and an average relative value is thus ascertained and established, with such an approach to accuracy as enables merchants and money dealers, engaged in foreign trade, to effect exchanges freely and securely for the money of commerce, whether tendered in gold or in silver.

But the money of a particular State is the medium of exchange, and measure of value and of contracts, not only for traders and money dealers, but for every member of the community. Public convenience, therefore, requires that it should be coined. Nations generally establish a measure of value, founded upon an ideal unit, or money of account and contract.

Coins, regulated in conformity to this standard, usually compose the metallic currency; and they are generally the only legal tender in payments.

Where gold or silver constitutes the national currency, such a regulation is a matter of great public interest. The stamp set upon the metal is the seal of the State, certifying as to the fineness and weight of the coin, which secures implicit confidence as to its intrinsic value; and the money unit, or its integral parts, or multiples, being exhibited in every coin, facilitates enumeration, exchanges, and payments, and contributes essentially to the convenience and advantage of the public.

The money of a State thus differing in some essential particulars from the money of commerce, the inquiry may be made with consistency and propriety, whether it is most judicious or expedient to regulate the standard in gold, or in silver, or in both metals.

Several of the eminent authorities quoted, including some of those who are practically acquainted with money transactions, strenuously maintain the superior advantages of the double standard, contending,

1st. That, in rejecting either gold or silver, the risk is incurred: "that if the rise is only on one of the metals for which there happens to be a greater demand, and that should be the sole legal tender, it will be exported, and diminish, in a most inconvenient way, the whole amount of specie—a diminution which, in that case, cannot be remedied, by resorting to the other metal which is not a legal tender;" and it is thought to limit the "facility of procuring a supply of gold and silver," and that it causes "the evils of a scanty circulation."

2d. That the rejection of either metal has the effect of "destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise."

3d. Although it is conceived to be not possible "that any degree of skill or ingenuity, in adjusting the proportions of gold and silver, can be such as to prevent the one or the other from having a preference, and becoming practically, in the course of a short period of years, the currency of the country, almost to the exclusion of the other, except for purposes of convenience," it is, nevertheless, alleged that the hazards from alterations in the measure of contracts, by "those fluctuations in the relative value of the two species of coin, are a quantity which may be neglected;" and it is maintained that "the necessity of occasional adjustment is a small inconvenience, when compared with the great inconvenience of using only one of the metals."

The committee having already expressed their conviction that the operations of commerce, if unimpeded by local and artificial obstacles, will certainly secure to every country its useful and equitable proportion of the money of the world, they feel compelled, reluctantly, to withhold their assent to the opinions preferred in support of the double standard. They cannot admit, that, by rejecting one of the metals, any of the injurious consequences predicted would ensue.

England may be instanced as a practical and forcible exemplification. She has by law recently (and for more than one hundred years previously, in practice) rejected silver as a tender in large payments, and adopted gold (the most costly, and scarce, and least used as money, of the two metals) as the measure and instrument for effecting exchanges. A subsequent act, restraining the issue of bank notes under five pounds sterling, opened an extensive field for circulation, which was immediately filled with gold; and her experience since, notwithstanding the wild and inconsiderate speculations of 1825, may, with that of preceding times, in regard to pecuniary resources, be compared with the means of any other nation to test the accuracy of these disadvantageous allegations against the single standard.

The free city of Bremen, an example on a very different scale of operations, uses gold exclusively, without any known inconvenience.

Hamburg, a neighboring city, of great business and wealth, has for centuries confined commercial payments to silver.

For ten years past we have, in practice, repudiated gold; and it is believed that money has not been more abundant for the same length of time in our commercial history. Our recent practice has in reality reduced gold "to the situation of a mere merchandise," but certainly without injuring its utility as money; for it is picked up with avidity, even in small sums, and exchanged with the greatest readiness for bank notes, redeemable on demand with silver, or effective in instant payments. Its value of course varies according to our pecuniary relations with England, the great market of the world for gold.

If an extensive demand was now to arise for gold, which is "the sole legal tender" in England and Bremen, its export would take place, until scarcity of money was sensibly felt. Commodities would then decline in price, or there would be a diminution of imports, until money found its just and natural level, differing in no perceivable respect from the effects produced, by an adverse balance of payments, upon other States using silver, or which have an established legal tender in both metals. For example, in 1827-'8, we became largely indebted to England and France. Our silver was exported to a great amount, as well as all the gold that could be procured. The banks curtailed their discounts; money became very scarce; we imported comparatively less; the balance was soon liquidated; and we worked through that adverse period with as little difficulty, suffering, or distress, and recovered from its ill effects, as speedily as on any of the many previous occasions that we have encountered the ebbs in commerce; although the increased value of gold had, in effect, rejected it from circulation, and deprived us of the power alleged to be remediate of "resorting to the other metal, which is not a legal tender."

Our own experience, and that of other nations, thus appearing to confirm in practice the accuracy of the principles previously deduced, the committee cannot resist the conviction that the regulation of a national standard in gold, or in silver, or in both metals, will not, in any respect, influence the pecuniary resources of a State, or contribute any relief whatever in periods of exigency. Unfavorable balances with foreign countries must be discharged with gold or silver, or commodities. Debtor nations, not possessing mines of the precious metals, must regulate their imports according to the exchangeable value of their surplus produce. They have no other means of purchasing money, or other foreign merchandise. The ill effects of bad seasons, and other unusual and adverse events, which occasion temporary pressure, are soon rectified by industry and frugality.

The great and inherent defect in the double standard, that has produced the evil of which we now complain, (the disappearance of gold,) and which has invited the remedy of a new adjustment of its relative value, is deserving of particular and grave consideration.

It has been already remarked, that the capacious mind which delineated the system of money adopted by Congress, expressed a strong desire "to render the unit as little variable as possible, because on this depends the steady value of all contracts, and, in a certain sense, of all other property." He was well aware "that if the unit belong indiscriminately to both metals, it is subject to all the fluctuations that happen in the relative value which they bear to each other."

He appears to have been strongly inclined to select gold as the only measure of value; and the difficulty which he experienced in arriving at the final conclusion to recommend both metals, is clearly evidenced by the undecided terms in which it is announced: "But, upon the whole, it seems to be most advisable," &c. The obvious advantages of the single standard having yielded to the preponderant influence of an apprehension that the rejected metal would be injured, as money, by "reducing it to the situation of a mere merchandise," and that "to annul the use of either of the metals as money, is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full, with the evils of a scanty circulation"—evils which were sensibly experienced at that time, whatever causes may have produced them, subsequent experience, and particularly that of the last ten years, having furnished strong reasons to doubt if the cause of those evils was accurately conjectured. The committee are induced, from that circumstance, to believe that the views which they have now expressed do not differ essentially from an authority so deservedly entitled to their respect.

There does not appear to be any diversity of opinion as to one radical defect in the double standard—the unavoidable necessity of occasional adjustments, or, in other words, of alterations in the measure of value and of contracts. The effects of these changes are variously estimated. A large majority of the writers quoted maintain that the over-rated metal will always be "the practical currency, [which] may change from one metal to the other in a short period of time. Gold was his cheapest payment, and, therefore, the practical standard of the country (England) at that time. In consequence of subsequent variations in the price between gold and silver, silver would be so now, as the debtor always acquires himself in the cheapest metal he is enabled to do so by law.

"Whilst each of the two metals was equally a legal tender for debts of any amount, we were subject to a constant change in the principal measure of value."

"Experience has proved, that when coins of the two metals are made a legal tender at given rates, those who have any payments to make will prefer to discharge the debt or obligation, by paying in that coin which is over-rated."

The Secretary of the Treasury justly remarks, that "if the ratio is so adjusted as to maintain both metals, for the time being, in equilibrium, subsequent fluctuations may expel that which is most necessary to the currency."

These opinions, which in times past were theories for our meditation, are now realized in practice. To use the language of a highly distinguished and learned Senator, Mr. Webster, "The English standard of value is gold; with us, that office is performed by gold, and by silver also, at a fixed relation to each other: but our estimate of silver is rather higher, in proportion to gold, than most nations give it; it is higher especially than in England at the present moment.

"The consequence is, that silver, which remains a legal currency with us, stays here, while the gold has gone abroad, verifying the universal truth, that if two currencies be allowed to exist, of different values, that which is cheapest will fill up the whole circulation."

It is, however, on the other hand, alleged, "that these fluctuations are a quantity which may be neglected;" "that Great Britain, till the year 1797, when the suspension of cash payments took place, and all other nations to this day, have used the two metals simultaneously, without any practical injury, and to the great advantage of the community;" and it is also maintained, that "the practical operation of the rule (gold to silver, one to sixteen) is much more instructive, since it shows that this relative valuation of the two metals secures their concurrent circulation in coins in a very large part of the world."

The semblance of disagreement amongst these writers as to realities, induces the supposition, that the expressions, "all other nations to this day have used the two metals simultaneously," "that this relative valuation of the two metals secures their concurrent circulation in coins," should likely be construed, in the restricted sense of a legal right, to tender them indiscriminately in payments.

The committee are not qualified by experience to pronounce with decision as to the usages, or the respective advantages, of the money systems of other nations; but, upon a deliberate and candid consideration of the various statements submitted, and a careful examination of many valuable documents, particularly those furnished by the Secretary of the Treasury, they are inclined seriously to question the practicability of devising any regulation of the standard, which will accomplish the desirable object of the bill, so that "every person who has coins of either silver or gold may easily exchange them for coins of the other metal; and that the people may enjoy the advantage of using either species of coins, according to convenience or pleasure."



The committee cannot doubt that the following facts are satisfactorily established by the concurrent testimony of the respectable evidence adduced.

1st. That gold was the practical standard of England from 1717 till 1797, in consequence of its being the overrated or cheapest metal, though the proportions were only 1 for 15.2 of silver, and silver coins were a legal tender by tale until 1774, and by weight subsequently.

2d. "That silver is the practical standard (of the continent) of Europe," "none (gold) being absolutely necessary (on the continent) as the standard or basis of the circulation, which is silver," although several nations regulate the measure of value in both metals, and with such accuracy that the premium on gold "in France is seldom above a tenth per cent., and sometimes runs up to a quarter per cent."

3d. That gold is the money of contract in "Havana and South America," because it is overrated, and "this arbitrary order drives of course silver from the market."

The simple fact, that gold bears a premium in France and in the United States, and silver in Havana and in South America, appears to furnish incontrovertible evidence that the metal thus undervalued does not circulate concurrently or simultaneously with the overrated metal. If currency thus discriminated produces in its operations that description of concurrent circulation contemplated by the passage of this bill, the result does not conform to the proverbial acuteness of money dealers and traders. They are not in the habit of paying a premium, however minute, for what can be obtained freely without charge; and that which is "concomitant in agency," or acting together "in general circulation," must be supposed to be within the reach of every man. Judging by our own experience in relation to this point, it is manifest that a premium on gold has banished it entirely from circulation; that the periodical demand for dollars in former times, for Asia, had, during its continuance, the like effect upon silver; and that, in 1827 and 1828, a premium of one-half to one per cent. on Spanish dollars, or those of the new American States, withheld them altogether from public use, although they constituted the great bulk of the specie fund of the United States.

The difference in value, indicated by small premiums, may not prejudice contracts of ordinary amount; but all experience testifies, that the customary currency of a State may be changed, to the great inconvenience of the uninformed portion of the community, by the slight inducement of a small fraction of a per cent. profit.

Sir Isaac Newton relates, that louis d'ors of France, worth but 17s. 0½d. sterling, became current in England at 17s. 6d., and, upon being forbidden, at his instance, to pass for more than 17s. they were immediately brought into the mint to the amount of £1,400,000 sterling; at another time moidores were current in the West of England at 28s., which were intrinsically worth 27s. 7d., and the country was full of them. Upon orders being issued that the public receivers should take them at 27s. 6d. only, they disappeared immediately. A profit of 2½ per cent. brought in plenty of louis d'ors, and the loss of three-eighths per cent. drove them out of circulation; 1½ per cent. profit brought in the moidores, and three-tenths per cent. loss made them disappear entirely. "It was (then) evident (as we know now) that they who traffic in coins will trade for a very small profit."

Besides the inconvenience of frequent changes in an instrument so incessantly used as money, fluctuations will occasionally occur, such as we wish at present to remedy, that have a detrimental influence on contracts; for instance, a sale made on credit, in 1820, to the amount of ten dollars, was, according to our legal standard, and in equity, an agreement, by implication, that the seller should receive in payment 3,712½ grains of silver, of the value of 247½ grains of gold. If this contract terminated in 1821,

it would have been discharged with ten silver dollars, which could have been purchased with 238½ grains of gold; and if the bargain had not expired until 1822, the payment might have been effected with 230 grains of gold, being a reduction in the first case of three and five-eighths per cent., and in the latter instance of fully seven per cent., from the amount agreed upon by tacit stipulation; and, consequently, a departure from the spirit of the agreement, and a violation of contract, though sanctioned by the letter of the law. If the standard should be regulated on the basis proposed in this bill, 233½ grains of gold will be equivalent to ten silver dollars. Suppose that, before the termination of a similar contract, an important demand for silver for Asia, or elsewhere, should suddenly arise, or that the British Government should return, in compliance with powerful solicitations, to the standard of value in force previous to 1819, which measure Mr. Baring thinks would reduce the value of gold 3½ per cent., will not the payer then discharge his debt in gold, and realize 3½ per cent., or whatever may be the amount of profit, resulting from the influence of unforeseen contingencies upon the relative value of these metals? Is it judicious, or consistent with a high and just regard for the equitable discharge of obligations, to expose pending contracts to the hazard of prejudicial vicissitudes, from causes beyond the national control?

Is there any thing in the ordinary course of events which justifies a legal regulation, that, under every change, must operate to the prejudice of the seller?

Are not buyers and sellers, in the free exercise of private judgment, on a perfect footing of equality, as to chances of benefit from a bargain, or as to claim for legislative protection? And if so, why should the law be framed on such a principle as to act uniformly in favor of the purchaser?

What are the compensative inducements to maintain regulations so obviously obnoxious to animadversion? The committee are obliged to acknowledge, after the most attentive and deliberate investigation, that, if correspondent advantages really appertain to this system, they must confess their inability to discover them.

It seems to be universally admitted that the regulation of the standard in one metal is the nearest practicable approach to invariableness, and that every attainable degree of uniformity is highly desirable. If the only legal tender in payments were dollars, each containing 371½ grains of fine silver, or 24½ grains of fine gold, the measure would be in quantity as invariable as a foot of twelve inches; and once established as the national standard, no alteration or interference on the part of Congress would ever afterwards be required. Silver being to silver, and gold to gold, identical and invariable, either of them may and will change in its relative value to commodities, as has been already stated, in the event of a material variation in its cost at the mines, or from a great alteration in the aggregate amount of exchangeable merchandise; but such important changes are of rare occurrence, or of too slow and gradual growth, to prejudice contracts during their usual term of pendency. Whatever might be the relative value of gold to silver, or however frequent their fluctuations, the standard measure in one metal would be unaffected; 371½ grains of silver would never cease to be equal to the like quantity of the same metal. National produce would be estimated and exchanged in conformity to this measure, and contracts would be discharged in accordance with the strict letter of the law, and the fair and equitable construction of the agreement.

The public would have the gratification of using the coin to which custom and convenience will have attached them. Foreign nations would not have an opportunity to withdraw one description of our currency, and to replace it with the other, to their profit; nor would it be ever necessary to entertain and discuss this very intricate and contro-

verted subject, or to deliberate on the passage of a bill which contemplated an important and serious change in the money unit, upon the invariableness of which the steady value of property essentially depends: The alteration in the quantity of gold, representing ten dollars, from 247½ grains to 233½ grains, is an actual reduction of six per cent. from the previously existing and long prevailing measure of contracts. Surely a change of such important character should not be made, unless deeply interesting to the public welfare; for, as General Hamilton has wisely and appositely remarked, "the quantity of gold and silver in the national coins, corresponding with a given sum, cannot be made less than heretofore, without disturbing the balance of intrinsic value, and making every acre of land, as well as every bushel of wheat, of less actual worth than in time past."

As it may, however, be the pleasure of the Legislature to attempt an effectual adjustment of the relative value of gold, some inquiry into the causes producing this necessity may be appropriate.

Lord Liverpool, Mr. Baring, and Mr. Ricardo, state, the practical currency of England, from 1717 till 1797, was gold, in consequence of its being the overvalued metal relatively, and the cheapest payment, although, during that period, the established standard was but 15.2 of silver for 1 of gold.

The legal value of the guinea was fixed, in 1717, by the recommendation of Sir Isaac Newton, the master of the mint, at 21s. sterling each, which price he estimated to be 4d. or one and five-eighths per cent. higher than its average value in commerce.

The quotation of prices of bullion in the London market, furnished by the Secretary of the Treasury since 1760, corroborates the opinion, that gold was overvalued in the mint regulations; the prices of gold and silver during ten years of profound peace, from 1783 until 1792, are upon an average in the relative proportions of 1 of gold for 14.76 of silver, indicating a premium of about three per cent. on silver; and it is worthy of notice, that, in the year 1785 alone, did the market price of gold conform to the legal standard.

It does not appear that there was any export of gold from the United States, of consequence, from 1792 till 1821—a period of such extraordinary commercial vicissitudes, that exchange must have occasionally been unfavorable. The relative legal value during that time was only 15 of silver for 1 of gold; and silver having been frequently at a premium of one to three per cent., gold could of course have been obtained without difficulty. Such respectable opinions and confirmatory circumstances, connected with the fact that England has long been the great market for gold, seem to authorize the inference that General Hamilton did not undervalue gold in 1792.

The coinage of France in 1785-'6, having been regulated at 1 of gold for 15½ of silver, exhibits a material difference in the estimate of value in that country. It may, however, be observed, that some period of tranquillity, and of public confidence, as well as an adverse balance of payments with other nations, is necessary to test the accuracy of such regulations. Internal dissatisfaction, loss of public credit, revolutionary movements, failure in paper currency, domestic or foreign wars, influence materially the relative value of gold to silver, in consideration of the comparative portableness of gold, for concealment, or for facilitating military operations; one or other of these extrinsic causes influenced, in some degree, the pecuniary regulations of France, from 1785-'6 till 1816. The fact that gold, in France, did not command a premium of more than one-half per cent. "during the four years which immediately followed the resumption of specie payments in England," cannot, it is conceived, be considered "a conclusive proof that it could not at most have enhanced the price of gold more than three-tenths per cent., since, in that case, the

advance would also have taken place in France, whence, in fact, a considerable portion of that demand was supplied." The proof is admitted to be conclusive as to the actual value of gold in France; but it must be recollected, that if the balance of payments between England and France was about equal, and there cannot be much preponderance where the currency is metallic, the charges of transportation must in such case be added, in order to ascertain the English value. Suppose that the proportions in French coin are equal to 1 for 15.7 of silver, if a premium of three-tenths per cent., probable deficiency in the weight of circulating coin one-half per cent., and insurance, freight, &c. one-half per cent., be added, it would place gold in England at the high relative rate of 1 for 15.9 of silver, equivalent to a premium of six per cent. upon our mint price. That the demand for gold was sensibly experienced in France at that period, may be inferred from a statement of the gold coined at the mints of France, according to Mr. Tooke: In 1818, the amount was 126 millions of francs; in 1819, 52 millions; in 1820, 28 millions; and in 1821, when the British demand was active, the coinage of gold in France nearly ceased, being only four hundred thousand francs in that year.

If the statement of the relative amounts of supply of the precious metals is entitled to any confidence, the increase in the production of gold since the commencement of revolutionary movements in Spanish America, in 1810, must have fully compensated the reduction in the demand for silver in Asia.

If the value of gold had risen from an increase of cost at the mines, which it is reasonable to conclude constitutes its real value, that increase of value would doubtless have been distinctly exhibited in England antecedent to 1797; and since, in general commerce, whether England had returned to specie payments or not, there were certainly no indications that gold was rated too low in our standard of 1 to 15 earlier than 1821, when the English demand commenced. The fact of concomitance in events is not relied upon as a proof of effective agency; but a great demand for gold and an increased relative value for gold being coeval circumstances, and in accordance with the universally admitted principle that a new or sudden increase of demand will enhance prices, it appears to be a natural and rational inference, that the British demand for gold was the cause of increasing its value in respect to silver.

Mr. Baring thinks "there is no doubt that when this country (England) returned to payments in specie, supposing we wanted fifteen to twenty millions of pounds of gold, for instance, and that to that extent there was a demand on the rest of the world for gold, gold got an increased value from that circumstance."

Mr. Tooke admits, that, at first, he coincided in this opinion, but, subsequently, he was inclined to question this "presumption, (which, in my opinion, has been much too generally and hastily admitted," chiefly on the ground that the supply of silver has actually increased; a conclusion which is not sanctioned by any authentic record within the knowledge of the committee, and at variance with the effects usually produced by revolutions and sanguinary civil wars, in any country, upon the amount of its staple commodity for exportation.

The annual product of gold for coinage, and for manufactures, is not estimated to exceed two millions of pounds sterling. Whether England required from foreign nations twenty, fifteen, or even ten millions of pounds, the magnitude of either amount could scarcely fail to have an important influence on the relative value of the precious metals. If the aggregate quantity of gold and silver, used as money, was unchangeable, the suspension or resumption of specie payments, by any great nation, would influence the money prices exclusively, and but slightly or temporarily disturb the relative value of the metals; but when it is well known that the precious metals are purchased in

## Gold Coins.

[21st Cong. 2d Sess.]

vast quantities for other purposes than money, it seems reasonable to conclude that a sudden demand for gold, as money, equivalent to five, eight, or ten years of the entire produce of the gold mines of the world, must necessarily, in competition with the manufacturing demand, enhance its value in reference to silver. If it could be clearly demonstrated (which may be questioned) that the rise in gold, in 1821, has been fully maintained since, the committee are not prepared to admit that this circumstance would controvert their position, because the vacuum created by such an immense draught on other nations cannot be speedily filled. The bullion market of England has been more fluctuating than might be expected, if the rise was the result of increased cost in the production of gold. The quotations adverted to furnish the following result:

1821,	Average relative value 1 of gold, for	15.92
1822,		
1823,		
1824,	Average relative value 1 of gold, for	15.65
1825,		
1826,		
1827,	Average relative value 1 of gold, for	15.75
1828,		
1829,		
1830,	Average relative value 1 of gold, for	15.94
	Average relative value 1 of gold, for	15.78

But, admitting the uncertainty of estimates or predictions as to the present or future amount of supply of the precious metals respectively, it may nevertheless not be irrelevant to remark, that, as the exploration of new mines of great promise speedily become matters of notoriety, and as universal experience has established the fact that mines long and deeply worked become less productive, it may be fairly concluded that the amount of silver annually furnished is not upon the increase; whilst, on the other hand, we have positive evidence of a rapid increase (as yet, to be sure, not comparatively on a great scale) in our own country, in the production of gold from mines represented to be of great territorial extent, and of encouraging and fruitful appearance.

After an attentive consideration of the circumstances connected with the rise of gold, the possible contingencies, and the prospects as to amount of supply, the committee are of opinion that its present relative valuation in commerce is not likely to be maintained; and they, therefore, cannot recommend the adoption of the value proposed, that of 1 for 15.9 of silver.

If they were well persuaded that the rise will be permanent, it would not change their sentiments in regard to the inexpediency of attaching a price to gold higher than its average rate in the commercial world. When coins circulated freely in the United States, silver composed the chief part of the currency; it has at all times formed a large portion of our specie fund: our money unit was founded upon the computed value of a Spanish silver dollar. It has ever been the actual or implied measure of contracts. Silver is the money to which we have been accustomed; and it is, also, generally speaking, the money of commerce. Public and mercantile convenience uniting in favor of silver as coin, it would appear to be highly injudicious to hazard the loss of our silver, by elevating the value of gold even to its average rate in commerce.

The committee are finally of opinion that the rate proposed by the Secretary of the Treasury, of 1 of gold for 15.625 of silver, is the utmost limit to which the value can be raised, with a due regard to a paramount interest—the preservation of our silver as the basis of circulation.

The committee have not overlooked the fair claims of our own gold miners; and they will now proceed to show that the decision against a high estimate is in no degree injurious to their interest.

Mr. Crawford, in his much esteemed report on currency, makes the following sensible and important observa-

tion: "If paper can be made to circulate, independent of its employment in the transmission of funds, gold and silver to the same extent will be exported. If paper will be received and employed generally as the medium of exchange, and especially if it is issued in bills of small denominations, the amount of specie which will be exported will be great in proportion to the paper in circulation. If this position be correct, the power of Congress will be insufficient to retain any considerable portion of gold or silver in the United States."

These opinions are so decisive as to the inutility of legislative regulations, with the view of placing and maintaining gold and silver coin in general circulation, that the committee will try their accuracy by the convictive if not infallible test of our own experience.

It may be affirmed that our currency, at the adoption of the constitution, was almost entirely composed of gold and silver money; the Bank of North America was in operation, but its notes had not likely much circulation. In 1791, the first Bank of the United States was instituted; but it is presumed that its issues were neither very great, nor perhaps intended to be of that denomination which passes easily into wide circulation, as General Hamilton, who projected that institution, was of opinion that "bank circulation is desirable rather as an auxiliary to, than as a substitute for, that of the precious metals." It is believed, that, so lately as the year 1800, coin constituted the bulk of the circulation, and was the chief instrument used for effecting exchanges of small amount. Bank notes were rarely seen south of the Potomac, or west of the mountains; and having had probably a restricted circulation in the interior of any State, it is not unlikely but that the people of the United States, until that period, (banks being too few and distant to be used as general depositories,) did enjoy the advantage of "using either species of coins, according to convenience or pleasure."

Subsequently, banks increased in rapid succession; public confidence and convenience facilitated the issue of their notes; and bank bills very soon ejected gold and silver coins from every channel of circulation which the denomination of the notes were adapted to fill. Notwithstanding this extensive substitution of paper in place of coin, gold and silver circulated partially until the war. It is not known correctly when the emission of notes under five dollars commenced; but presuming that few of that denomination were issued before the war, it is evident that a considerable amount of gold and silver was necessary to the public convenience, and, being necessary, it was no doubt possessed. The notes of local banks generally do not circulate freely beyond the limits of their State; and the first Bank of the United States having issued no bills of a lower denomination than ten dollars, travelling expenses, and other objects of distant disbursement, created a considerable demand for gold or silver, whilst the vast variety of minor expenditures under five dollars must have retained in circulation a large amount of Spanish or American dollars.

It is a reasonable and moderate estimate to suppose that a population of seven and a half millions, in 1811, required, for the purposes recited, not less than seven or eight millions of gold and silver coin, independent of the integral parts of a dollar, wanted as change. Silver dollars were of necessity in circulation, as there was no substitute, and gold was probably more abundant than was indispensable to public convenience; being the overrated metal, it was no doubt paid out by the banks, in order to check the exportation of silver, or to realize a profit on its sale. The dissolution of the Bank of the United States occasioned a great increase of local institutions; war soon succeeded, specie payments were suspended, and the whole country was inundated with notes from one-sixteenth part of a dollar upwards, to the entire exclusion of the precious metals.

After the banks resumed specie payments, silver continued to be occasionally in demand for exportation, at a premium. Gold being consequently the cheapest metal, composed a considerable portion of the specie fund; and it was tendered and paid out by the banks in preference to silver, until the year 1821, when the English demand commenced. Since that time, gold has disappeared entirely from circulation, and also from the vaults of the banks. The resumption of cash payments did not restore our circulation to the footing of 1811. Five dollar notes have been constantly issued by the present Bank of the United States, and notes of one, two, and three dollars, circulate in a great majority of the States, to the exclusion of silver, except as change.

This brief statement exhibits the progressive alterations in our currency, from coin to bank notes, issuing, finally, in a paper circulation, (redeemable on demand with specie,) and no coin above the fractional parts of a dollar—a result which illustrates and verifies the assertion of Mr. Crawford, that, “if paper will be received and employed generally as the medium of exchange, and especially if it is used in bills of small denomination,” it will be impracticable “to retain any considerable portion of gold or silver in the United States.” The current of business which inevitably produces this effect, is well understood, or easily explained. The advantages enjoyed by a bank over an individual money lender, arises from such general confidence in its solidity as induces the deposit, for safe keeping, of the surplus funds of the community, and the reception of its notes as money. These are the sources of profit beyond the use of its capital, and of these the chief is usually its issues. Banks not only hold the surplus funds of the society, and furnish the circulating medium, but every payment and receipt of magnitude is made through their agency. The entire currency of the United States is thus constantly flowing into the banks, and out again into general circulation.

If the profit of these institutions depends materially upon the emission of their paper, is it likely, is it reasonable, to expect that they will ever voluntarily make payments in coin? If money is not much wanted, the issue of notes strengthens their vaults, and places them in an attitude to meet with facility the first improvement in business. If money is in fair demand, will not the desire to realize large profits keep their specie as low as prudence will authorize, and cause them to regard with solicitude its emission? Is it not obvious that their interest presents, constantly, a strong inducement to avoid the disbursement of specie? Have we not all experienced, or heard of the reluctance with which banks part with coin? And is it not well known, that when money is in demand, instead of meeting a call for specie with cheerfulness and accommodation, the general desire and practice is to tender that description of coin which the applicant does not want? If gold is demanded, will not silver be tendered, and the reverse?

This course of business is in accordance with the nature of the vocation; and it is not mentioned with the slightest disposition to imply censure or disapprobation, but to show, in the practical operation of our money system, the inefficacy of any measure to increase the circulation of gold or of silver, whilst bank notes retain the public confidence, and are issued of small denominations.

The legal authority to regulate the currency of the United States was one of the powers granted to Congress by the constitution; but its practical efficiency is exercised exclusively by the banks. The money used by the people of the United States for every object of internal trade, is bank bills. The specie basis, which sustains the circulation, is regulated in its amount according to the pleasure or discretion of the issuers of the paper. The notes are redeemable on demand in coin; but that liability, however beneficial as a security, has no effect upon

the composition of the circulating medium. Any sum demanded will be promptly obtained, for concealment, or manufacture, or for exportation; but whatever may be the amount of specie withdrawn from the bank for other purposes, the circulation of coin is but momentarily increased, as the strong current of payments speedily carries it back to the banks, whose interest it is to reissue a less costly substitute.

The committee have thus minutely examined the course of banking operations, in order to show, as they conceive, that if “bank notes are pressed into every channel of circulation,” so “diffused through our extensive country, and so much is silver banished from circulation, that the option to demand silver is not within the reach of the great body of the people;” yet it does not appear how this difficulty would be removed by the coinage of gold. Congress can establish such a relative value for gold, as would soon convert all the silver in the vaults of the banks into that metal; but it is apprehended that “the power of Congress will be insufficient” to force gold into circulation, while five and ten dollar notes are issued and sustained in circulation by public confidence.

Cordially concurring in the justice and propriety of the remark, that “a bad state of the coins is a great evil; but when such a state of the coins is continued for the purpose of promoting the use of paper money, the end is pernicious, and the means are an abuse of power,” the committee nevertheless cannot perceive wherein the legislative authority can be exercised, under existing circumstances, so as to improve or alter the domestic circulation.

Leaving out of view the past year, during which the balance of payments with other nations has been unusually in our favor, it is questionable if the total amount of specie, generally, in the United States, has much exceeded the amount possessed nearly thirty years ago, although population has more than doubled, and wealth has increased in a much greater ratio. The amount of silver in circulation, of which a half dollar is the highest denomination, is estimated at five to eight millions; the former is likely the most accurate conjecture, as a large majority of the States, including those which have made the greatest progress in commerce and manufactures, use notes of one, two, and three dollars. According to a statement entitled to respect, the circulation of the State banks on the 1st January, 1830, deducting the notes of other banks on hand, was about thirty-six millions of dollars; of which the notes under five dollars amounted to something less than five millions, the specie about thirteen millions, the nett issues of the Bank of the United States were about thirteen millions, its specie seven millions—total circulation nearly fifty millions of dollars of notes, and five millions of silver, with a reserved fund of twenty millions of dollars, held by the banks.

As these issues are sustained in circulation by public opinion, the community must be satisfied with their safety and convenience, or the power which sustains would promptly be withdrawn. We have commerce and wealth enough to bring and buy the precious metals, as well as many other luxuries that we purchase; and we may therefore be considered as exemplifying in part the general opinion of Mr. Lowndes, in regard to paper currency and the precious metals, who states in his report on coins, that “wherever trade has existed without the paper, specie has been abundant, and scarce always where the paper has existed, either with or without the trade: we must conclude, that when precious metals become scarce, while the price of foreign and domestic productions continues high, their scarcity results not from the country being unable to procure or retain them, but from its choosing to employ a substitute for their use.”

It has, however, been suggested by a highly respectable authority, frequently adverted to, that “Congress may,

if it deems proper, lay a stamp duty on small notes, which will put an end to their circulation;" and it has also been proposed, "in order to bring gold more generally into circulation, that all notes under the denomination of ten dollars be suppressed." "The reduction in the amount of the paper currency, arising from a suppression of the small notes, may be estimated at six or seven, and that produced by the suppression of the five dollar notes at about eight millions. Both together would probably lessen the paper currency by one-fourth, and substitute silver and gold coins in lieu thereof."

The partial introduction of gold and silver coins into general circulation would, no doubt, render our current medium a more certain and stable measure of exchange, and contribute to the gratification of those who prefer coins to paper. The committee are not insensible of the advantages thus proposed; and if circumstances authorized any effectual change, they would readily concur in such measures of melioration as expediency might suggest. They are of opinion that the wages of labor, and the produce which small farmers pass immediately to the consumers, might, with advantage and propriety, be paid in coin, on the ground that this industrious and deserving class, who derive no benefit from the credit system, should not encounter any risk in the medium of payment.

An alteration of this nature would open an extensive home market to our miners, as gold might then be coined at such a regulation of value as would secure its permanency in circulation; and if it were limited to effect the small payments noted, it would not expose our silver to hazard, nor would such a measure as is apprehended raise prices injuriously, it having been ascertained by long experience in England, that "this rise is influenced by a defect in that sort of coin only which is the principal measure of property, and in which our balances to foreign countries are regulated and paid," for, as Mr. Ricardo remarks, "the silver currency was, during a great part of this period, (a long period previous to 1797,) very much debased; but it existed in a degree of scarcity, and therefore, on the principle which I have before explained, it never sunk in its current value."

But there will be time enough to ascertain distinctly the public opinion in regard to alterations of important character, before it will be in the power of Congress to interfere with efficiency.

Independent of other existing difficulties, the committee entertain the decided conviction that the public faith solemnly guaranties to the proprietors of the Bank of the United States the privilege to issue notes of five dollars.

The numerous reports and official statements which have been made to Congress upon coins and currency, abundantly testify that some dissatisfaction has long subsisted in regard to our circulating medium.

The committee, therefore, were of opinion, that, however tedious a minute disquisition upon a subject of such intricacy might appear, it was their duty to effect a complete investigation.

Notwithstanding the notoriety of great discordancy of views prepared the committee to encounter the difficulty of making an election amongst authorities of equal eminence and capacity, yet it has been the cause of much regret that their conclusions have oftentimes differed from the sentiments of those for whose judgment they entertain high respect.

The committee have carefully collated the diverse opinions of many writers of great distinction and celebrity, upon this complicate and controvertible subject; and having engaged in its examination with unprejudiced minds, and an earnest desire to arrive at just views of general principles, and of their beneficial adaptation to the peculiar circumstances of the United States, they will now conclude their report with a recapitulation of their deliberations and investigations.

1st. That the operations of commerce will assuredly dispense to every country its equitable and useful proportion of the gold and silver in currency, if it is not repulsed by paper, or subjected to legal restrictions.

2d. That it cannot be of essential importance to any State, whether its proportion of the money of commerce thus distributed consists of gold, or of silver, or of both metals, it being the instrument of exchange, but not the commodity really wanted.

3d. That there are inherent and incurable defects in the system, which regulates the standard of value in both gold and silver: its instability as a measure of contracts, and mutability as the practical currency of a particular nation, are serious imperfections; whilst the impossibility of maintaining both metals in concurrent, simultaneous, or promiscuous circulation, appears to be clearly ascertained.

4th. That the standard being fixed in one metal, is the nearest approach to invariableness, and precludes the necessity of further legislative interference.

5th. That gold and silver will not circulate promiscuously and concurrently for similar purposes of disbursement, nor can coins of either metal be sustained in circulation with bank notes, possessing public confidence, of the like denominations.

6th. That if the national interest or convenience should require the permanent use of gold eagles and their parts, and also of silver dollars, the issue of bank bills of one, two, three, five, and ten dollars, must be prohibited.

7th. That if it should hereafter be deemed advisable to maintain both gold and silver coins in steady circulation, and to preserve silver as the measure of commerce and of contracts, gold must be restricted to small payments.

8th. That if it is the intention to preserve silver as the principal measure of exchange, permanently and securely, it will be necessary to estimate the relative value of gold under its present average, or probable future value in general commerce.

Influenced by these considerations, the committee recommend that the standard value of gold be regulated according to the ratio of 1 of gold for 15 625-1000 of silver; and that the portion of alloy hereafter used in coinage be established at one-tenth, and therefore submit the following amendments to the bill from the Senate.

	Grains, fine gold.	Grains, standard gold.
The gold eagle to contain	237.6	= 264
half eagle	118.8	= 132
quarter eagle	59.4	= 66

## INTERCOURSE WITH THE DANISH WEST INDIES.

Message from the President of the United States, transmitting copies of a correspondence between the Secretary of State and the minister of Denmark, in relation to the commercial intercourse between the said States and the Danish West India islands, &c.

### To the House of Representatives of the United States:

I transmit herewith to Congress the copy of a correspondence which lately passed between Major General Von Scholten, his Danish Majesty's Governor General of his West India possessions, and special minister to the United States, and Mr. Van Buren, Secretary of State, concerning the regulation of the commercial intercourse between those possessions and the United States, which comprehends the propositions that General Von Scholten made to this Government, in behalf of his sovereign, upon that subject, and the answers of the Secretary of State to the same; the last showing the grounds upon which this Government declined acceding to the overtures of the Danish envoy.

This correspondence is now submitted to the two Houses of Congress in compliance with the wish and request of General Von Scholten himself, and under the full persua-



21st Cong. 2d Sess.]

*Intercourse with the Danish West Indies.*

sion, upon my part, that it will receive all the attention and consideration to which the very friendly relations that have so long subsisted between the United States and the King of Denmark especially entitle it in the councils of this Union.

ANDREW JACKSON.

WASHINGTON, 31st December, 1830.

*List of papers accompanying the Message of the President of the 31st December, 1830.*

Letter, General Von Scholten to Mr. Van Buren, 27th October 1830.

Mr. Van Buren to General Von Scholten, 29th November, 1830.

General Von Scholten to Mr. Van Buren, 4th December, 1830.

Mr. Van Buren to Gen. Von Scholten, 10th December, 1830.

Gen. Von Scholten to Mr. Van Buren, 11th December, 1830.

*General Von Scholten, Special Minister from Denmark, to Mr. Van Buren, Secretary of State of the United States.*

CITY OF WASHINGTON, October 27, 1830.

The undersigned, Major General Von Scholten, Governor General of his Danish Majesty's West India possessions, and charged with a special mission near the United States' Government, has had the honor of representing verbally to his Excellency Martin Van Buren, Secretary of State of the United States, how deeply the interest of his Danish Majesty's West India possessions has been affected by the high duties imposed upon their staples in the United States, and the consequent necessity to his Majesty's Government of taking such measures as shall secure to the colonies a market for their products, in return for the supplies they shall want, and which they have been in the constant habit of taking from the United States.

Ever anxious to promote the welfare of his subjects, his Majesty has invariably encouraged and protected a commercial intercourse of this description between the United States and his Majesty's West India possessions, as an intercourse founded in nature by the proximity of the geographical position of both territories, and the fitness of their products for a mutual exchange. Acting upon this principle, his Majesty never went to the full extent of the colonial system in reserving to the mother country an exclusive privilege of trading with the colonies, but admitted, at all times, American ships and their cargoes, while the ships of all other nations were excluded. The undersigned is frank to allow that this was not considered a favor bestowed upon America, but the consequence only of a system which the interest and welfare of the colonies recommended; yet it bears an unequivocal stamp of a friendly disposition towards the United States, inasmuch as his Majesty did not suffer any jealousy with regard to the shipping interest of Denmark, or any deficiency in a fair reciprocity on the part of the United States, to divert him, in his colonial system, from that policy which nature, in his judgment, pointed out and recommended, of allowing the colonies to take their supplies from the United States, while the United States were willing to take their sugar and rum in return.

His Majesty saw, no doubt with regret, the perseverance with which the United States' Government formerly adhered to a system of discriminating duties of tonnage and impost, which excluded altogether Danish ships from any participation whatever in the intercourse between the United States and his Majesty's West India possessions, and more particularly the strong character which this disposition assumed in the year 1803, when the question of abolishing discriminating duties, upon the princi-

ple of reciprocity, was agitated and lost in Congress; yet no countervailing measures were ever adopted in his Majesty's colonies, from a due regard to the interest of these colonies, and the ships of the United States were consequently left, for more than forty years, in full and exclusive possession of the whole carrying trade between said colonies and the United States. The American ships have, however, of late maintained the same ground, notwithstanding the convention of the 26th of April, 1826, by which Danish ships were admitted to a fair competition with them; and it has, therefore, been fully established by actual experiment, that all the benefit to be derived by the shipping interest from any commercial intercourse between the United States and his Majesty's West India possessions, is entirely and exclusively in favor of the United States, as an advantage naturally belonging to them from the proximity of their position, and the character of the trade; and it is, therefore, now neither disputed nor complained of.

But when the shipping interest of the United States is so essentially benefited by a commercial intercourse with his Majesty's West India possessions, it is a subject of regret that the United States should not have been content with this advantage, but should have proceeded upon a system indicating a persuasion that the colonies would be under the necessity of taking their supplies from the United States, whether the United States would take their products in return or not. This is justly to be regretted, because those pretensions are entirely at variance with the first principle of all commercial intercourse, that of being based upon a mutual exchange of commodities; and which, moreover, is so apparent and direct in its application, with regard to the relation in which his Majesty's West India possessions stand to the United States.

The climate and soil in the island of St. Croix being peculiarly favorable to the cultivation and manufacture of sugar and rum, those articles have been cultivated and manufactured in preference to provisions; and the United States being placed by nature in a reverse position, the exchange of their respective products was a natural consequence, and, as such, favored and encouraged by his Majesty's Government. The planters of the island of St. Croix have thus been in the constant habit, from the very time the island came into his Majesty's possession, of taking their supplies from the United States, and of looking to the United States for a market for their sugar and rum in return. Nay, so decidedly has this been the case, that the prevailing usage of the island has been, and still is, to effect this exchange of sugar and rum against supplies in a direct manner, without the intervention of money. In this way, almost the whole of the rum manufactured in the island has, for years, been disposed of to American merchants, supplying the estates with Indian meal, flour, salted provisions, hoops, staves, in short, every thing coming under the denomination of supplies, on the express condition of taking rum in payment at a certain price. The rum, however, not being sufficient by itself to cover the expenses for supplies, a great portion of the sugar crop has annually been employed and disposed of in the same manner. From this character of the trade, and which exhibits its real nature, it is evident that a refusal on the part of the United States of admitting sugar and rum from the island of St. Croix, on fair terms, into the market of the United States, in exchange of supplies thence to be received, must inevitably destroy the trade, and put an end to the intercourse altogether.

The United States possess, unquestionably, great natural advantages over Europe in general in the supplying of the West Indies; but those advantages are certainly overrated when the colonies are considered as depending upon them exclusively, or without any regard to terms. It is a well known fact, that the cultivation of provisions has been carried to a great extent in the British islands, as connect-

ed with their agricultural and commercial system; and the experiment was likewise successfully made in the island of St. Croix during the British occupation, but afterwards abandoned upon the restoration of the island, on account of the facility afforded by the Danish Government to the commercial intercourse and exchange of commodities with the United States. Nor is the expense, difficulty, and inconvenience in getting supplies from Europe so great as generally represented. The bulk of exports from the colonies surpasses that of imports to such a degree that the outward bound freight forms but a very small item in the expense, and brings, therefore, Europe, as it were, so much nearer to the West Indies. The British colonies, in particular, were never supplied with salted provisions from the United States; and, by a reference to the statistical account of the island of Cuba, by Governor Velez, and inserted in abstract in the American Quarterly Review for June, this year, an evidence will be had of what may be effected by legislative measures, when circumstances make it desirable to encourage the supplying of the colonies from Europe. It will be seen with astonishment how the importation of flour from the United States into the Havana has decreased of late years, the same having been 68,395 barrels in the year 1827, and only 30,830 in the year 1828; while that from Spain was but 37,662 barrels in the former year, and rose to 86,642 in the latter. It is, therefore, neither visionary nor of difficult execution to give such a direction to the trade of the West Indies, and the less so when it is the natural course which the trade ultimately must take under a prohibitory system in the United States against the staples of the West Indies.

The undersigned has laid particular stress upon the mutual exchange of products, as the first principle of all commercial intercourse, and as being of more direct application to the intercourse between the United States and his Majesty's West India possessions. Supposing, upon this principle, an exchange of rum against Indian meal to be allowed in the United States, without any duty whatever, this commercial convertibility of Indian meal into rum may fairly be stated as a simile to the operation of distilling—with that difference only, that the building employed is a ship instead of a distillery, and the hands American seamen instead of common laborers. Such an exchange of products, however, which, in the opinion of the undersigned, would have been fair and profitable to both parties, giving a result according to the option of those concerned, has been interdicted by the tariff of the United States, not with a view to the prevention of intemperance, as no tax or restraint whatever has been imposed upon the distilling of spirits from grain or molasses, nor to protect New Orleans rum, which, from peculiar circumstances unfavorable to its manufacture, does not constitute a staple in the market, but solely for the purpose of precluding a foreign article from the American market, and superseding it by an exclusive privilege given to a domestic manufacture known by the name of New England rum. This rum is manufactured from foreign molasses, allowed to be imported for that purpose chiefly, and not from New Orleans molasses, which bears a higher price in the market as a substitute for sugar. New England rum is, therefore, not a domestic article in its raw materials; but as molasses does not make a good quality of rum without a due proportion of skimmings, which are not to be had in the New England States, the New England rum is besides of a very inferior quality to that manufactured in the West Indies, and becomes only marketable for home consumption by an admixture of a certain proportion of St. Croix rum; after which, this spurious article is thrown into the market, and passed off under the name of St. Croix rum: nay, so great is the difference between St. Croix rum and New England rum, that, notwithstanding the prohibitory duty im-

posed upon foreign spirits in the United States, a small quantity of St. Croix rum continues to be imported for the above purpose, and is actually paid for, on account of the high duty, at the rate of eighty-five cents per gallon, while the price of New England rum is only twenty-six. Exclusive protection has thus been given to a most inferior article, which has been forced upon the consumers without any other benefit to the country than what may result from the employment given to a very limited number of hands in the operation of distilling the molasses, while the vital interest of a neighboring colony has been disregarded, possessing in its climate and soil a natural advantage in producing a superior article, constituting, by nature, a staple commodity of its production, and receiving almost without restriction the produce of the United States, to a very large amount; by which means, the industry of this country, in its various branches, has been encouraged and maintained in the same proportion; even the stills, worms, vats, and butts, used in the manufacture of rum in the island of St. Croix, are taken from the United States.

In all the bar-rooms throughout the Union, the name of St. Croix rum is still conspicuous as a sign of the extensive intercourse which formerly existed between the United States and the island of St. Croix, and of the great demand its produce met with in the American market. At that time it was the real and genuine article, which was sold every where without adulteration; while at present only the name is borrowed, to cover an imitation spirit of a most inferior quality.

It has been shown above how this great change has been brought about, to the great injury of the island of St. Croix, without any adequate profit to the United States; and, by further pursuing its consequences, a total change in the trade of the colony will be found to be the inevitable result. The island of St. Croix cannot give up the natural advantages possessed by her in making rum of a superior quality from her molasses and skimmings on the spot. If, therefore, the prohibitory system be persisted in on the part of the United States, all the rum manufactured in the island of St. Croix, being, as the supposition is, excluded from the American market, which formerly even constituted its only market, must of course be shipped to Europe; and, when so shipped, all the supplies required, to that extent in value, must be taken from the same quarter.

The undersigned knows from actual experience, as Governor General of his Majesty's West India possessions, that it is not, and cannot be, in the power of the planters of the island of St. Croix to contract for their supplies in any other way than by barter, or a direct exchange of commodities. The supplies must be contracted for, payable in rum and sugar; and rum and sugar must be given in payment for supplies. To buy supplies in money, to raise that money by bills of exchange, and to rely upon the payment of such bills from the proceeds of produce shipped to a third place, distant from the colony as Denmark is, is altogether impracticable. The planters have not the credit to do it, nor is it their interest so to act. It is the merchant's business to take the chances of the markets upon himself, to furnish the supplies, and to take rum and sugar in return, and thus to close the transaction with the planter at once. From this character of the trade, the course it will and necessarily must take, under the circumstances above stated, is evident; and hence it becomes incumbent upon his Majesty's Government to anticipate the result by legislative measures calculated to facilitate the transition from the present system, which is altogether in favor of a commercial intercourse with the United States, to the full extent of the supplies required, to a new system, limited in its principles by the encouragement and protection which the colonial trade of the mother country shall require, and upon which the colony, under such circumstances, must be thrown for its supplies.

With regard to the importation of sugar into the United States from the island of St. Croix, the duty of three cents per pound cannot be said to be an absolute prohibitory duty; but it falls, nevertheless, very heavy upon the West India planter; and is the more felt, as the price of that commodity has generally declined all over the world, which increases the relative proportion said duty bears to the actual price. If that price be four dollars in the West Indies, which has been its low ebb this present year, the duty of three cents per pound amounts to seventy-five per cent. of the original cost; while, assuming the price to be seven dollars, which was readily paid some years ago, it gives a proportion of about forty-three per cent. only. Commissions, interest, and insurance, ashore, are affected in the same manner, and become heavier on the article in proportion to its decline in price. A still greater drawback, however, results from the manner in which consumption is affected by the price at which an article is sold in the market. It is in the power of the United States' Government and Legislature, by reducing the high duty now existing upon sugar, to create an increased demand for that article, proportioned to the increased culture which of late years has taken place; and thus promote the comforts of the people, and the interest of commerce generally, depending upon production and consumption, domestic and foreign. Without such an aid, the market of the United States will possess no allurements; the difference between the prices in Europe and America will be too trifling to encourage the trade with the United States; and the colonial system adopted by other nations, and in a manner forced upon his Majesty's Government by the prohibitory system of the United States, will, by its direct influence over a great portion of the trade, naturally give a similar tendency to the whole.

His Majesty is, however, far from desiring such a state of things. With him, the proximity of the United States to the West Indies was always a primary consideration; and, duly appreciating all the advantages resulting from that position, his Majesty conceives it to be the interest of both countries to cultivate and protect a commercial intercourse in this hemisphere, and not to suffer it to be sacrificed in consequence of a jealousy with regard to the benefits to be derived from it. Impressed with this conviction, and relying with full confidence on the liberal views of the United States' Government, his Majesty has deemed it expedient that an extension of the sixth article of the treaty of 1826 should be proposed to the President of the United States, having for its object to secure and confirm the intercourse therein provided for by the means of mutual concessions, upon the principle of a fair reciprocity, the outlines of which may be given in the simple proposition that the island of St. Croix being the natural customer of the United States, the United States will be her customer to the same extent; the interchange of commodities to be favored on both sides by a tariff accommodated to the circumstances of the case.

The undersigned having been honored with his Majesty's confidence upon this occasion, has addressed himself to his Excellency the Secretary of State with all the frankness which his Excellency's character so justly inspires; and after the various conversations he has had with his Excellency upon this subject, he feels no hesitation in declaring, at once, the full extent of concessions which he has been authorized to make as the basis of such an arrangement on the one side, trusting that they will be taken into due consideration by the United States' Government, and elicit concessions in return of a character to accomplish the object in view. His Majesty is thus disposed to engage, for a term to be fixed hereafter—

1st. That, in the intercourse of the island of St. Croix with foreign countries beyond the West Indian seas, no foreign ships but those of the United States shall be admitted to an entry at the custom-houses of the island, nor

suffered to export produce thence; (the whole trade of the island will thus be reserved to the Danish and American flag;)

2d. That Indian corn and Indian corn meal, imported into the island of St. Croix from the United States, shall be subject to no duty whatever; (this article amounts to nearly 20,000 puncheons annually;) and

3d. That all other articles, without any limitation whatever, shall be allowed to be imported into the island of St. Croix from the United States, subject to such duties only as by this arrangement shall be agreed upon, and which shall not exceed five per cent. ad valorem on certain articles considered necessities, or of general use and consumption, as flour, salted provisions of any kind, butter, cheese, tallow, candles, fish oil, oil of turpentine, live stock and horses, staves, hoops, headings, shingles, boards and deals of all descriptions, and all sorts of manufactured goods of the coarser kind, whether made from wood, metals, wool, or cotton, and not exceeding ten per cent. ad valorem on all other articles coming more properly under the denomination of luxuries, as furnitures, carriages, gigs, &c.

By these concessions, if not repelled, the island of St. Croix will be linked to the United States by ties but very little inferior to those existing between the colony and the mother country. The island of St. Croix stands already in quite another relation to the United States than any other colony in the West Indies. From the protection hitherto given by the Danish Government to the American trade, American merchants have settled in the island, fortunes have been made, money lent out, and landed properties acquired by them to such an extent that the interest of the United States has become most essentially concerned in the welfare and prosperity of the island, and more particularly in the removal of all shackles upon the commercial intercourse between the two countries. This feeling has manifested itself in the United States in a manner not to be misconceived by Government. It is fairly an American interest of no small amount, which his Majesty is anxious to protect jointly with that of his own subjects.

From the report of the Committee on Commerce in the House of Representatives last year, and from what appears to be the public opinion generally, the undersigned takes it for granted, that, whenever the subject shall have been more fully discussed in the ensuing session of Congress, the prohibitory duty upon rum, and the very heavy duty upon sugar, will be considerably reduced. To this reduction, however, in its general character, the concessions above offered can have no reference. The concessions offered, if accepted, will place the island of St. Croix in a particular relation to the United States, different from that in which all other foreign colonies stand to this country. If they shall make the same concessions, they will of course be placed upon the same footing, but not until then.

This consideration leads naturally to a discrimination in the duties. A foreign market, secured to the general industry of the United States in the way proposed, without any restriction whatever, will, in a great measure, participate in the character of a home market, and from that circumstance assume an intermediate station between that and foreign markets in general. It is conceived to be the interest of the United States to maintain this distinction, and to graduate the duties accordingly. With regard to the island of St. Croix, an additional argument may be adduced in its favor, taken from its proximity to the island of St. Thomas, where the American trade has already developed itself under the protection of the Danish Government.

The duty upon sugar may thus be divided in a certain proportion, considering one part of it as a protecting duty in favor of sugar cultivation within the territory of the

United States, and another part as a discriminating duty in favor of foreign markets fairly thrown open to the whole industry of the United States; and therefore making said discrimination recoil upon that industry as a benefit.

With regard to the importation of rum from the island of St. Croix, the undersigned is perfectly at a loss to account not only for the prohibitory duty imposed upon that article, but also for any duty whatever in the character of protection. He has stated his reasons; and, if there be any arguments left against them, he relies with confidence on their removal by a due consideration of the terms upon which his Government is ready to meet the United States' Government in giving extension, stability, and protection to the commercial intercourse in question. As far as a duty upon rum, nevertheless, may be deemed expedient in the United States for the sake of revenue, a discrimination in the duty, as above stated, is suggested to his Excellency as an essential item in the proposed arrangement.

By the colonial system adopted and acted upon in the island of St. Croix, provision has been made to exempt from restriction such portions of the produce of the island as shall be deemed necessary to cover the supplies annually received from the United States. A general permit has thus been granted for the exportation of rum to the United States without any restriction whatever; but, with regard to sugar, only such a quantity has been allowed to be shipped to the United States as shall appear indispensable in making up for the deficiency in the rum for the above purpose; and, as a standard to go by in ascertaining this quantity, the right of exporting sugars to the United States has been connected with the importation of certain articles of prime necessity. From this statement, it will appear that particular pains have been taken by the Danish Government to regulate the exports by the imports, as nearly as may be, which secures a reciprocity in the commercial intercourse with regard to the amount, if so required, with a view to any discrimination of duty in the United States that may be agreed upon. For this very reason, it is not proposed to include the islands of St. Thomas and St. John's in the arrangement, both being exempted from the colonial restrictions to which St. Croix is subject, and which afford the guaranty above stated.

The undersigned flatters himself with the hope of having satisfied his Excellency the Secretary of State of the extent of the interest involved in the question. He feels confident that the intercourse at stake cannot be considered of less importance to the United States than it is to the island of St. Croix. Both parties are equally interested in coming to an understanding upon the subject: the necessity, however, is more pressing on the part of the island of St. Croix; in consequence of the pernicious effects already produced in that island by the tariff of the United States. The inhabitants have, therefore, earnestly implored his Majesty to remove the evil, or to apply a remedy; and, from the extent of their grievances, his Majesty would have lost no time in urging this subject upon the attention of the United States' Government at an earlier period, if he had not been refrained for a while from so doing by the consideration of another question of great importance and delicacy, at the time still pending between the two countries. The interest of the colony was, however, attended to immediately upon the settlement of this question; and, from the intimate knowledge possessed by the undersigned of the true interest of his Majesty's West India possessions, over which he has the honor of presiding in the capacity of Governor General, and the warm support he deemed it his duty to give to the complaint of the planters, he was selected by his Majesty for this mission to the United States' Government. He professes himself to be a zealous advocate of a commercial intercourse between the United States and the island of St. Croix, to the

full extent of the supplies required; and would, therefore, exceedingly regret if he should fail in his attempt to save it, and be compelled, by an artificial state of things, to advocate another system. He feels, however, happy in having no apprehension of such a result in leaving the matter to the decision of the United States' Government.

The undersigned avails himself of this opportunity to renew to his Excellency the Secretary of State the assurance of his high and distinguished consideration.

P. V. SCHOLTEN.

To his Excellency M. VAN BUREN,  
Secretary of State U. S.

*Mr. Van Buren to General Von Scholten.*

DEPARTMENT OF STATE,  
Washington, November 29, 1830.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note which was addressed to him on the 27th ultimo by Major General P. Von Scholten, Governor General of his Danish Majesty's West India possessions, and charged with a special mission near this Government, remonstrating against the injurious effects produced upon the commerce between those possessions and the United States, in consequence of the high duties imposed upon the importation of their staple productions into the ports of this Union; and apprising this Government that his Danish Majesty, anxious to promote, at once, the prosperity of his colonies, and the mutual and important interests involved in their trade with the United States, had authorized General Von Scholten to submit, through the undersigned, for the consideration of the President, the basis of a commercial arrangement founded on reciprocal concessions of exclusive privileges, on either side, calculated, as Gen. Von Scholten alleges, to facilitate an exchange, upon equal and advantageous terms, of the productions of the Danish West Indies for those of the United States; and to extend the benefit of the liberal provisions contained in the existing treaty between the two countries.

The undersigned having laid General Von Scholten's note before the President, has been directed to state to him, which he has now the honor to do, that its contents have received that earnest and deliberate consideration to which they were entitled, as well from their importance as from the high source and friendly motives from which they have emanated. The very friendly relations which have subsisted between the United States and Denmark; the perfect accord of liberal views, which has led the two Governments to establish their commercial intercourse upon the most enlarged principles of equality and reciprocity; the recent evidence given by his Danish Majesty of his desire to adjust amicably the only subject of difference existing between the two Governments; and the very flattering mode selected by him of communicating his views and propositions to the Executive of the United States, are considerations too strongly indicative of the King's frank and friendly dispositions towards this country, to have been overlooked by the President, and have added new incentives to his desire to reciprocate those friendly sentiments, and to go as far as his own sense of executive authority could permit in endeavoring to reconcile an acceptance, by him, of the propositions submitted by General Von Scholten, with his view of the obligations imposed upon the United States by existing laws, and by their solemn engagements with other nations.

Actuated by these views, it has, therefore, been with real and sincere regret that the President has been unable, after the most deliberate consideration and reflection, to overrule his own conviction that, under existing circumstances, he could not, consistently with the obligations just referred to, accede to the terms proposed by General Von Scholten as the basis of a commercial arrangement

between the United States and Denmark, founded upon reciprocal concessions of exclusive privileges. This conviction, and the regret it draws after it, the undersigned has been directed to express to General Von Scholten.

The course of policy which has invariably been pursued by the United States in their commercial intercourse with foreign nations, and for a departure from which their Government can, at this time, discover no adequate cause, even if existing and imperative obligations did not put it out of their power to do so, has been to extend equal privileges to all nations who consent to reciprocate them with the United States; and their legislation has been uniformly predicated upon that principle. The President would have found in this consideration alone, apart from all others, a powerful motive for the utmost caution in considering a proposition, which, like that contained in Gen. Von Scholten's note, involved a departure from general principles and uniform practice. But, in coming to a determination as to the course proper for him to pursue, he has been governed by motives which left him still less free to act upon the subject in a manner more consonant with the desire entertained by his Danish Majesty. These motives have their source in the treaties now in force between the United States and other nations, by virtue of which the productions of all of them, without distinction, are admitted into our ports upon payment of equal duties, and, in all other respects, upon equal conditions. These stipulations put it out of the power of this Government to make any exception, in that regard, in favor of the possessions of his Danish Majesty.

In reply to so much of General Von Scholten's note as remonstrates against the injurious effects produced by the heavy duties imposed upon the productions of his Danish Majesty's colonial possessions in the ports of the United States, and alludes to measures of redress and indemnity which his Majesty may feel himself constrained to resort to, in case of rejection by the United States of the propositions offered for their acceptance by General Von Scholten, the undersigned is instructed to say that the duties complained of form a part of the general legislative policy of the United States, adopted with a view to the protection of their own productions, which the President considers as being under the peculiar and appropriate direction of Congress—a direction which he does not wish to embarrass or abridge by any conventional compacts entered into by the Executive authority with foreign States. He can, however, with confidence, assure General Von Scholten, as well from his knowledge of the prevailing sentiment in that body, as from the known good will universally existing towards Denmark in the United States, and which has extended itself to every branch of this Government, that a failure on its part to modify its laws with a reference to the particular interests of his Danish Majesty's possessions can never be justly attributable to a want of disposition to improve and cherish the most liberal and friendly relations between the United States and Denmark, and to extend their commercial intercourse, as far as that can be done consistently with the respective interests of the two countries.

General Von Scholten has, in the note to which this is an answer, alluded to the measures which, in the event of the United States declining to accept his propositions, his Danish Majesty would feel himself compelled to adopt, in order to divert the trade of his West India possessions from its present channel, and to secure to the produce of those colonies, in some country other than the United States, an exchange upon advantageous terms. Upon this branch of the subject, the undersigned is directed to state to General Von Scholten, that, after the many proofs which the United States have received of his Danish Majesty's friendly dispositions towards them, and the full and frank explanation now given of the motives

which govern the decision of their Executive on this occasion, the President feels confident, that, whatever may be the character of those measures, they will be dictated by no considerations inconsistent with existing treaties, or that may at all impair the good understanding which has characterized the relations between the two countries. Any measure adopted in that spirit, whose sole object will be to promote the interests of his Majesty's colonial subjects, whatever may be its effects upon the commerce of the United States, cannot but be looked upon by the President with the same liberal and friendly feelings with which, it is hoped, his Majesty will consider the conduct of the Federal Government in this negotiation. To this sentiment the undersigned begs leave to add his own conviction that, in the arrangements which the Danish Government may find it expedient to adopt in relation to its West India trade, it will not lose sight of the natural and undoubted advantages which it derives from the relative geographical situation, and the respective productions, of the Danish islands and the United States.

In concluding this note, the undersigned cannot, in justice to his own feelings, refrain from expressing to General Von Scholten his deep sense of the satisfaction which he has derived from the frank and friendly manner in which this negotiation has been opened and conducted by General Von Scholten. Such dispositions could not but meet with a full reciprocation on the part of this Government; and the undersigned finds in these mutual good feelings an additional cause to regret that it could not reconcile with its own sense of duty and expediency a ready acceptance of the friendly overtures made by the Government of his Danish Majesty.

The undersigned avails himself of this opportunity to renew to General Von Scholten the assurance of his most distinguished consideration.

M. VAN BUREN.

*General Von Scholten to Mr. Van Buren.*

WASHINGTON, December 4, 1830.

The undersigned, Major Gen. Von Scholten, Governor General of his Danish Majesty's West India possessions, and charged with a special mission near the United States' Government, has the honor to acknowledge the receipt of the note which was addressed to him on the 29th ultimo by Mr. Martin Van Buren, Secretary of State of the United States; and, while he laments the failure of his mission, therein communicated, he cannot but highly appreciate the frankness and candor with which the Secretary of State, by the President's order, has entered upon the whole question.

It is not for the undersigned to put any construction upon the engagements into which the United States' Government may have entered. Suffice it to say, that the United States' Government has expressed itself bound by solemn treaties not to make specific duties the subject of reciprocity in a commercial intercourse with other nations; and the undersigned must, of course, abide by that decision. It not only removes every question of any particular convention being concluded between Denmark and the United States on the subject of the colonial trade, but precludes even the possibility of any act of Congress authorizing the President of the United States to reduce the duties within certain limits in favor of any particular colony or nation that might adopt a similar or specific reduction of duties in return.

But although specific duties may not enter into the commercial arrangements between two nations, it cannot be maintained that no reference whatever is had to the duties imposed upon commerce by spontaneous legislation of either party. If the bounties of nature were equally distributed throughout the world, and every country adapted to every kind of production, there might be some



chance of accommodating industry to any particular legislation; but when the production of a country is marked out by nature, and its staples naturally confined to one or two articles, which is the case with the island of St. Croix, the produce of which consists exclusively of sugar and rum, it is evident that any prohibitory duty upon the importation of those articles into the United States will as effectually close the ports of the United States against the whole industry of that country as if the law were so expressed in direct terms. The possibility of a circuitous intercourse by the means of the industry of a third or fourth nation, cannot be assigned as an adequate compensation for the loss of a direct one, which must be allowed to be the only consideration, in a commercial point of view, between two countries, relative to the industry of their people. A fair system of duties and imposts, which shall admit the possibility of an exchange of commodities, appears, therefore, to be the indispensable condition contemplated by the commercial interest throughout the world; and a departure from it, by exorbitant and prohibitory duties, never failed to draw forth complaints from the parties aggrieved, though the present state of commerce does not admit of a more specific expression. From this view of the subject, the undersigned cannot relinquish the hope that it may be deemed fair by the United States' Government, and at the same time suit its own interest, to modify and reduce the present duties, which weigh so heavily upon the staples of the West Indies, not as a favor to any colony in particular, but as a general measure only, for the purpose of preserving a beneficial intercourse with the West Indies. Whereas, however, the Secretary of State has stated it to be a subject which the President considers as being under the peculiar and appropriate direction of Congress, the undersigned is apprehensive lest he should be wanting in his duty with regard to the interest confided to his care, if he did not most respectfully request from the President that the various observations made by the undersigned, relative to the West India trade, might be laid before the Legislature of the United States, which shall have to decide upon a rule of policy, in which the interest of a most important part of his Majesty's possessions is so deeply concerned. The undersigned takes, therefore, the liberty to request the favor of the Secretary of State to submit to the President of the United States his present note.

In discussing the subject of a commercial intercourse between the United States and his Danish Majesty's West India possessions, the undersigned has proceeded with frankness and candor, and is happy to find that the Secretary of State has done him the justice to acknowledge that no unfriendly feelings have been involved in the question. From an impression that a concentrated trade with the United States would be more beneficial to the island of St. Croix, as susceptible of more certainty and regularity in its operation than a scattered intercourse with Europe in general, the trade of the colony was actually so confined by law. American vessels were the only foreign vessels admitted into the colony, and the intercourse with the United States the only foreign intercourse, beyond the West India seas, allowed. No wonder, then, that this intercourse should have increased to the extent it at one time did, nor that an embarrassment should have been felt in the same ratio, when the resources of the colony actually were rendered unavailable in the American market. This having been the case, the system became no longer tenable; and, in explaining that circumstance to the United States' Government, the undersigned flatters himself to have removed every unfavorable impression which otherwise might result from the adoption of a new system for the colonial trade of the island of St. Croix, should a continuation of the present duties in the United States upon the staples of the West Indies

render the same indispensably necessary: he feels, however, perfectly satisfied that no departure from the present system will be made without the greatest reluctance, and that, therefore, it will be limited to such measures only as the interest of the colony may be deemed imperiously to require.

Although the negotiations opened by the undersigned with the Secretary of State have not led to a result favorable to the views of his Majesty's Government, yet the undersigned has derived great satisfaction from the good feeling and friendly disposition evinced by the United States' Government upon this occasion, and which presents an additional pledge of that good understanding between the two countries which it will no less be his Majesty's desire to cultivate and improve.

In concluding this note, the undersigned begs leave to express to the Secretary of State the fullest acknowledgment of the courtesy which has been extended to him, and avails himself of this opportunity to tender to the Secretary of State the assurance of his most distinguished consideration.

P. VON SCHOLTEN.

Mr. MARTIN VAN BUREN,  
*Secretary of State of the United States.*

*Mr. Van Buren to General Von Scholten.*

DEPARTMENT OF STATE,  
*Washington, Dec. 10, 1830.*

The undersigned, Secretary of State of the United States, has submitted to the President the note which Major General Von Scholten, Governor General of his Danish Majesty's West India possessions, and his special minister to the United States, was pleased to address to him on the 4th instant, in reply to the one which the undersigned, by direction of the President, wrote to him on the 29th ultimo, upon the subject of certain propositions which he had made to this Government, for the regulation of the commercial intercourse between the United States and his Danish Majesty's said possessions.

The undersigned is expressly directed by the President to observe to General Von Scholten, as he has the honor of doing, in reply to this last communication from him, that, in the exercise of the high and responsible duty with which he is charged by the constitution and laws of this Union, in regard to its foreign relations, he could derive no greater satisfaction than from a cordial and zealous co-operation with his Danish Majesty in accommodating the commercial intercourse between the United States and the Danish West India possessions to the views and wishes of his Danish Majesty upon the subject, as far as this might be found competent to him, and not incompatible with his sense of the paramount interests of his constituents, or of their engagements to other States. Under these circumstances, the undersigned is likewise especially instructed by the President to repeat to General Von Scholten, upon the present occasion, the deep regret which was experienced at having been obliged, by the considerations which are already made known to him, to decline acceding to the overtures of General Von Scholten, in behalf of his sovereign, upon that important concern. The undersigned has great pleasure, however, in stating, by direction also of the President, that he will take an early opportunity, in conformity with the wish expressed by General Von Scholten, to submit to Congress, during its present session, a copy of the entire correspondence which has passed between General Von Scholten and this department, in relation to the proposed modification of the commercial intercourse referred to.

The undersigned renews to General Von Scholten the assurance of his distinguished consideration.

M. VAN BUREN.

*General Von Scholten to Mr. Van Buren.*

WASHINGTON, December 11, 1830.

The undersigned, Major General Von Scholten, Governor General of His Danish Majesty's West India possessions, and charged with a special mission to the United States' Government, has the honor to acknowledge the receipt of the note addressed to him on the 10th of this month by Mr. Martin Van Buren, Secretary of State of the United States, communicating the final answer from the President of the United States respecting the propositions made by the undersigned for the regulation of the commerce of the United States with his Danish Majesty's possessions; which propositions are positively and finally declared unacceptable by the President, but in such terms and spirit of friendly disposition towards his Danish Majesty's Government, as cannot fail to prove gratifying.

With respect to the part of the above note communicating the President's consent to the respectful request of the undersigned, that his former statements respecting the United States' commerce with his Danish Majesty's West India possessions might be laid before Congress, the undersigned begs leave to express his full sense of the readiness and unreserve with which the above request, in behalf of his Government, has been acceded to, and his sincere hope that an early and favorable decision upon the desired modification in their commercial intercourse may still render a continuation of the same possible.

In this hope, and relying with all the confidence and security which the liberal and friendly proceedings of the Secretary of State, in the course of the late negotiations, so justly inspire, upon the frank concurrence of the United States' Government for the attainment of the object in view, the undersigned considers the interest of his Danish Majesty's West India possessions in the desired modification as thus more secure than his own continued presence could possibly render it; and begs leave, in case of any additional information or communication being required, to refer the Secretary of State to his Danish Majesty's chargé d'affaires, Chevalier Steen Bille, for such.

The undersigned has, therefore, in conclusion, only to add the renewed assurances of the high gratification and pleasure derived from the courtesy and frankness with which the late negotiations have invariably been marked on the part of the United States' Government, and to request the favor of the Secretary of State that he will receive the President's directions respecting the time when it may be his pleasure to allow the undersigned the honor of waiting on him, previous to his departure from the city.

The undersigned avails himself of the present opportunity to tender to the Secretary of State the assurance of his high consideration.

P. V. SCHOLTEN.

## - TRADE WITH BRITISH COLONIES.

Message from the President of the United States, transmitting the papers relating to the recent arrangement in relation to the trade between the United States and the British colonies, &c.

*To the Senate of the United States:*

I communicate to Congress the papers relating to the recent arrangement with Great Britain, with respect to the trade between her colonial possessions and the United States, to which reference was made in my message at the opening of the present session.

It will appear from those documents, that, owing to the omission, in the act of the 29th May last, of a clause expressly restricting importations into the British colonies in American vessels to the productions of the United States; to the amendment engrafted upon that act in the House of Representatives, providing that, when the trade with the West India colonies should be opened, the com-

mercial intercourse of the United States with all other parts of the British dominions or possessions should be left on a footing not less favorable to the United States than it now is; and to the act not specifying the terms upon which British vessels coming from the Northern colonies should be admitted to entry into the ports of the United States, an apprehension was entertained by the Government of Great Britain, that, under the contemplated arrangement, claims might be set up, on our part, inconsistent with the propositions submitted by our minister, and with the terms to which she was willing to agree; and that this circumstance led to explanations between Mr. McLane and the Earl of Aberdeen, respecting the intentions of Congress, and the true construction to be given to the act referred to.

To the interpretation given by them to that act, I did not hesitate to agree. It was quite clear that, in adopting the amendment referred to, Congress could not have intended to preclude future alterations in the existing intercourse between the United States and other parts of the British dominions; and the supposition that the omission to restrict, in terms, the importations to the productions of the country to which the vessels respectively belong, was intentional, was precluded by the propositions previously made by this Government to that of Great Britain, and which were before Congress at the time of the passage of the act, by the principles which govern the maritime legislation of the two countries, and by the provisions of the existing commercial treaty between them.

Actuated by this view of the subject, and convinced that it was in accordance with the real intentions of Congress, I felt it my duty to give effect to the arrangement, by issuing the required proclamation, of which a copy is likewise herewith communicated.

ANDREW JACKSON.

WASHINGTON, 3d January, 1831.

*List of papers accompanying the Message of the President of the 3d January, 1831.*

Extracts of a letter from Mr. Van Buren to Mr. McLane, dated 20th July, 1829.

Extract of a letter from same to same, dated 5th August, 1829.

Copy of a letter from Mr. McLane to the Earl of Aberdeen, dated 12th December, 1829.

Copy of a letter from the Earl of Aberdeen to Mr. McLane, dated 14th December, 1829.

Copy of a letter from Mr. Van Buren to Mr. McLane, dated 26th December, 1829.

Copy of a letter from Mr. McLane to the Earl of Aberdeen, dated 16th March, 1830.

Extract of a letter from Mr. McLane to Mr. Van Buren, dated 6th April, 1830.

Extract of a letter from Mr. Van Buren to Mr. McLane, dated 18th June, 1830.

Copy of a letter from Mr. McLane to the Earl of Aberdeen, dated 12th July, 1830.

Copy of a letter from same to Mr. Van Buren, dated 20th August, 1830.

Copy of a letter from the Earl of Aberdeen to Mr. McLane, dated 17th August, 1830.

Copy of a letter from Mr. Van Buren to Mr. McLane, dated 5th October, 1830.

Copy of a proclamation of the President, dated 5th October, 1830.

Copy of a circular. Instructions from the Treasury to the collectors, dated 6th October, 1830.

Extract of a letter from Mr. McLane to Mr. Van Buren, dated 6th November, 1830.

Copy of a letter from Mr. McLane to the Earl of Aberdeen, dated 3d November, 1830.

Copy of a letter from the Earl of Aberdeen to Mr. McLane, dated 5th November, 1830.

Copy of the British order in council, dated 5th November, 1830.

Copy of the British schedule of duties.

Extract of a letter from Mr. McLane to Mr. Van Buren, dated 22d November, 1830.

*Extracts of a letter from Mr. Van Buren to Mr. McLane, dated July 20, 1829.*

First. *The trade between the United States and the British American colonies.*—The policy of the United States in relation to their commercial intercourse with other nations, is founded on principles of perfect equality and reciprocity. By the adoption of these principles, they have endeavored to relieve themselves from the discussions, discontents, and embarrassments, inseparable from the imposition of burdensome discriminations. These principles were avowed whilst they were yet struggling for their independence, are recorded in their first treaty, and have since been adhered to with the most scrupulous fidelity. In the year 1815 they repealed all their acts imposing discriminating tonnage duties on foreign ships or vessels, and of impost, so far as respected the produce or manufacture of the nations to which such foreign ships or vessels might belong; such repeal to take effect in favor of any foreign nation which should abolish similar duties, so far as they operated to the disadvantage of the United States.

In the year 1817, they restricted the importation into the United States, in foreign vessels, to articles of the growth, produce, or manufacture of the country to which such vessels belonged, or as could only be, or were most usually, shipped in the first instance from such country; provided that such regulations should not extend to the vessels of any foreign nation which had not adopted, or should not adopt, a similar regulation with regard to them.

In the year 1824, they declared the suspension of all discriminating duties, in relation to the vessels and produce of several European nations, and of their territories in Europe, which had accepted of the terms proffered by the act of 1815, and conferred authority upon the President to extend the same exemption to all nations thereafter complying with its requirements; and in 1828 an act was passed, authorizing the President to extend the exemption in regard to alien duties, which, by the acts of 1815 and 1824, was restricted to the productions of the country to which the vessel belongs, to the productions of any foreign country imported into the United States in the vessels of any nation which would allow a similar exemption in favor of the United States.

The terms proposed by our act of 1815 were adopted in the commercial treaty between the United States and Great Britain in the same year, which has been twice extended, and is now in full force. By it, the commercial intercourse between the United States and the British possessions in Europe is established upon just and equal terms. The United States desired to place their trade with the British American colonies on the same footing. The Government of Great Britain would not then consent to that arrangement; and it was consequently stipulated in the treaty that the intercourse between the United States and his Britannic Majesty's possessions in the West Indies, and on the continent of North America, should not be affected by any of its provisions, and that each party should remain in complete possession of its respective rights with regard to such intercourse. The trade and intercourse between the United States and the British colonies previous to, and at that time, were such only as were permitted by British legislation, or regulation by orders in council. It had always been of a restricted and unequal character, and every previous attempt to

place it upon just terms had wholly failed. Since 1815, both Governments have uniformly admitted it to be their belief that a commercial intercourse between the United States and the British colonial possessions referred to, upon terms of fair reciprocity, would promote their mutual interests.

To establish it upon such terms has always been the sincere object of this country, and, until a very late period, the avowed wish of Great Britain.

The twelve years which have elapsed, have, with occasional intermission, been employed in endeavors to arrange those terms by negotiation, or to secure them through the agency of separate legislative enactments; and, although the two Governments have more than once concurred in each other's views as to the conditions to which they would assent, their respective acts have resulted in the almost entire suppression of the trade. Since the 1st December, 1826, there has been a total non-intercourse between the United States and the British American colonies in British vessels, and the same in regard to American vessels, (with the exception of the permission allowed to the latter to carry on a direct trade with the British North American possessions, the Bahama islands, and the island of Anguilla, upon terms prescribed by Great Britain alone.) The acts of the two Governments which have led to this result, are so intimately connected with the positions which they respectively occupy, and of a nature calculated to have so much influence on the measures of conciliation and redress which may be adopted, as to render it important that they should be fully known and accurately understood. Your participation in the public councils has given you a general view of their principal outlines; but it is thought advisable to furnish you with a more particular exposition than the opportunities you have enjoyed would allow you to obtain. A very brief sketch of such as are most prominent, is, with this view, submitted to you.

The direct trade between the United States and Great Britain was found to be so interwoven with, and dependent upon, that between the United States and the colonies, as, in a great measure, to deprive the former of the advantages intended to be secured to them by the treaty of 1815, so long as the intercourse of the colonies was monopolized by British navigators. Several efforts were consequently made, between the years 1815 and 1818, to induce the British Government to adjust this collision of interests by amicable negotiation. They were unsuccessful. In 1817, a proposition was submitted to our minister at London, by the Secretary of State for Foreign Affairs, Lord Castlereagh, which was said to contain all that could then be assented to by Great Britain towards admitting the United States to a participation in the trade between them and the colonies. By this it was proposed to extend to the United States the provisions of their free port acts, which authorized a limited trade with portions of her colonies to the colonial inhabitants of foreign European possessions, in vessels of one deck, with some additional provisions in relation to the trade with Bermuda, Turk's Island, and the British territories in North America.

The terms contained in this proposition were decided by the Government of the United States to be inadmissible, and countervailing measures were resorted to.

The act of Congress of the 18th of April, 1818, concerning navigation, was passed. Its object was to counteract acts of a like character long before existing on the part of Great Britain, restrictive of the trade with her colonies in vessels of the United States. By that act the ports of the United States were closed against British vessels coming from any British colony which was, by the ordinary laws of navigation and trade, closed against vessels of the United States; and British vessels sailing with cargoes from ports of the United States were laid under

bonds to land their cargoes in some port or place other than a colony closed against vessels of the United States.

The negotiation was in the same year renewed, and another attempt, equally unsuccessful, was made to open the trade, and establish it upon principles which were claimed by our Government to be those of fair reciprocity.

The act of Congress of the 15th of May, 1820, "supplementary to an act entitled 'An act concerning navigation,'" followed. By it, the ports of the United States were, after a certain day, closed against British vessels coming or arriving by sea from any British colonial port in the West Indies or America; and similar bonds were required from British vessels sailing from the ports of the United States, not to land their cargoes in any British American colony. Articles of British West Indian and North American produce were allowed by this act to be imported into the United States, only direct from the colony of which they were wholly the produce, growth, or manufacture. Thus establishing a non-intercourse in British vessels with all the British American colonies, and prohibiting the introduction into the United States of all articles the produce of those colonies, except that of each colony imported directly from itself.

Such was the relative state of the intercourse between the United States and the British colonies, respectively, from September, 1820, till the passing of the act of Parliament of the 24th of June, 1822, and the consequent proclamation of the President.

By the act of the 6th of May, 1822, in anticipation of the passage of the British act last referred to, Congress authorized the President, upon his being satisfied that the British colonial ports were opened to the vessels of the United States, to open their ports to British vessels upon terms of reciprocal advantage. The act of Parliament of June, 1822, repealed several existing acts, and opened certain of the colonial ports to the admission of American vessels laden with certain articles of American produce, upon specified conditions, and restricting the intercourse to the direct trade between the United States and the colonies. The President, by his proclamation, issued immediately after the receipt of the British act, opened the ports of the United States to British vessels engaged in the colonial trade, subject to a like restriction, and upon terms which were deemed to be of reciprocal and equal advantage, but retaining our discriminating duties. The retention of the discriminating duties was made the subject of complaint and discussion on the part of the British Government. The measure was justified by ours, as being only a fair equivalent for the imposition of protecting duties on American produce in all, and export duties in some, of the colonies.

The King had authority, by act of Parliament, to interdict the trade to all nations which refused to allow privileges to British vessels engaged in the colonial trade, equal to those granted to foreign vessels by the act of the 24th of June, 1822, and, also, to impose countervailing duties, but neither power was then exercised.

The act of Congress of the 1st of March, 1823, was the next material step in the movements of the two Governments. At the period of its passage, the two countries were engaged in an extensive and valuable trade between the United States and the colonies, by virtue of the British act of Parliament and the President's proclamation, our discriminating duties remaining unrepealed, but continuing to be a cause of complaint on the part of Great Britain.

The influence which the passage of this act has obviously had upon the course of affairs in relation to the trade in question, together with the circumstance that the closing of our ports was the effect of its terms, renders it important that its provisions should be distinctly understood. They were, in substance, the following:

1st. It continued the suspension of the acts of 1818 and 1820, already effected by the President's proclamation,

and opened our ports to a direct trade only with such of the British colonial ports as had been opened to us by the act of Parliament of June, 1822, subject, as things then stood, to the payment, by British vessels, of our alien or discriminating duties.

2dly. It put forth a claim, which had been previously advanced by us in our negotiations upon the subject, but always resisted by Great Britain, viz. that no higher duties should be imposed upon the productions of the United States in the British colonial ports, than upon those of Great Britain herself, or her other colonies, and which had been levied for the protection of their own produce. This was done by giving an authority to the President to suspend the payment of our discriminating duties by British vessels coming from the colonies, upon being satisfied that no such duties were levied in the colonies on our produce, and by declaring that, until such evidence was given, payment should continue to be exacted.

3dly. It restricted the trade to such British vessels as had come directly from the colonial ports, and had not touched at any other port after they left the colony.

4thly. It declared that its provisions should only be in force so long as the privileges granted by the act of Parliament of June, 1822, were allowed to our vessels, and that if, at any time thereafter, the trade, or any part of it, was prohibited to us by Great Britain, through an act of Parliament or order in council, and that fact proclaimed by the President, each and every of its provisions should cease, and the acts of 1818 and 1820 be revived and in full force.

The passage of this act was followed by the exercise of the authority given to the King to impose countervailing duties; and they were accordingly imposed to an amount equal to ours, by an order in council of the 21st July, 1823, upon all American vessels and their cargoes arriving in the colonial ports. Under these reciprocal impositions, the trade between the United States and the colonies was carried on from that time, until it was suppressed by both Governments, in the manner hereinafter stated.

The negotiation was resumed by Mr. Rush in January, 1824. In its course, propositions for regulating the trade were submitted by him, which received the assent of the British plenipotentiaries, with the exception of that prohibiting the imposition of protecting duties in the colonies, to which their dissent was expressed in the strongest terms.

Mr. Rush's instructions precluded him from settling the matter upon any other terms, and the negotiation was suspended in the month of June following.

On the 5th of July, 1825, an act of Parliament was passed, allowing the trade with the British colonies in North America, and the West Indies, to all foreign nations, upon conditions which will be hereafter referred to. It limited the privileges thus granted to foreign vessels, to the ships of those countries, not having colonies, which should place the commerce and navigation of Great Britain, and her possessions abroad, upon the footing of the most favored nation, unless the King, by order in council, should in any case deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the required condition was not, in all respects, complied with by such country.

Mr. King was sent to England in the summer of 1825, but without instructions upon this point. His continued indisposition induced him to return in the summer of 1826, and during that period no step was taken by either Government.

In the winter of 1825-'6, an attempt was made in Congress to meet the act of Parliament of July, 1825, by correspondent legislation, but it failed; and although the trade might, and most probably would, have been saved, if the act then introduced had become a law, it is never-

theless true, as has been stated, that it would not have been a strict compliance with the British act, if it had passed.

In the summer of 1826, Mr. Gallatin was sent to England with instructions, which authorized him to conclude an arrangement of the colonial question upon terms substantially the same with those which were offered by the British plenipotentiaries to Mr. Rush in 1824; but his authority was confined to an adjustment by treaty stipulation.

On the 27th of July, 1826, the King, by order in council, founded upon the act of Parliament of July, 1825, declared that the United States had not complied with the conditions of the act, and therefore directed that the trade and intercourse between the United States and the greater part of the British colonial ports should cease from and after the first day of December then following.

Mr. Gallatin arrived in England a few days after the publication of those orders in council. The determination of the British Government to decline all further negotiation upon the subject, was promptly and definitively announced to him. The foundation of this determination was avowed to consist principally in the reiterated refusals of this Government to accept of the only terms to which Great Britain would agree, and a subsequent change of the colonial policy of that Government, by opening her colonial ports to all foreign nations upon the conditions set forth in their acts of Parliament. The whole subject was laid before Congress by the President in the winter of 1827, and an unsuccessful attempt made to obtain the passage of a law requiring our ports to be closed also. Congress having adjourned without doing any thing in the matter, the President, by his proclamation dated the 17th day of March, 1827, declared the trade between the United States and all the British colonies, with which it had been allowed by the act of Parliament of 1822, to be prohibited, and the acts of Congress of 1818 and 1820 to be revived.

On the 16th of July, 1827, another British order in council was issued, embracing the regulation of the colonial trade with Great Britain with all nations; reciting the passage of an act of Parliament, by which it was declared that one year from the time of passing the act of July, 1825, should be the period in which an acceptance of its provisions by foreign nations should be valid; declaring what nations had so accepted the same, and closing their ports against all those that had not: among the latter, the United States were included.

The extent and operations of our acts of 1818 and 1820 have been before stated. The commercial relations between the United States and the British colonies have been regulated by their provisions, and the British order in council of July, 1827, from that period to the present day. By instructions from this department, of the 11th of April, 1827, Mr. Gallatin was authorized to announce to the Government of Great Britain the acquiescence of this in the proposition that the colonial trade should be regulated by law, and to ascertain the disposition of the British Government to open the trade by separate acts of legislation. This was distinctly done by Mr. Gallatin, in his note to Lord Dudley of the 4th of June, 1827. He was further informed that the President was willing to recommend to Congress, at its next session—

1st. To suspend the alien duties on British vessels and cargoes, and to allow their entry into our ports with the same kind of British colonial produce as may be imported in American vessels—the vessels of both countries paying equal charges.

2dly. To abolish the restrictions in the act of 1823 to the direct intercourse between the United States and the British colonies, thus leaving Great Britain in the exclusive possession of the circuitous trade between Great Britain proper through her colonies; and he was directed

to inquire whether the passage of an act of Congress to that effect would lead to the revocation of the order in council of July, 1826, to the abolition of the discriminating duties on American vessels in the British colonial ports, and to the enjoyment by our vessels of the advantages offered by the act of the 5th of July, 1825. The effect of these concessions, it was pointed out to him, would be a waiver of the claim of the United States, as made in the act of March, 1823, to the admission into the colonial ports of our produce upon the payment of the same duties as similar produce from other parts of the British possessions was required to pay.

No answer was made by the British Government to Mr. Gallatin's note of the 4th of June, 1827, announcing the willingness of this Government to arrange the trade by separate legislation; and Mr. Canning, on being applied to by Mr. Gallatin to know whether he might expect a reply, informed him that such was not the intention; that they considered that note as merely furnishing explanations; and he expressed his surprise that any doubt could exist as to the final disposition of the British Government upon that subject.

After Mr. Canning's death, the willingness of the United States to accept, through the medium of separate legislation, the terms of the act of Parliament of the 5th July, 1825, was again communicated by Mr. Gallatin to the British Government, by a note to Lord Dudley of the 17th August, 1827, in which he requested to be informed whether, if Congress complied with the recommendations which the President was willing to make, the United States would be admitted to the trade and intercourse allowed by the act of Parliament of the 5th July, 1825.

Mr. Huskisson, in a subsequent conference, informed Mr. Gallatin that Great Britain considered the colonial intercourse as exclusively under her control, and that whatever terms might be granted to foreigners, would be considered as an indulgence; that he was not prepared to say whether, in any way, or if at all, on what terms it would be opened to the United States, in case of their repealing their restrictive acts.

Lord Dudley, in reply to Mr. Gallatin's letters of the 4th June and 17th August, after reviewing the grounds urged by the United States to justify themselves in omitting to accept the terms of the act of Parliament of July, 1825, declined committing the British Government as to their course in the event of the United States adopting the measures proposed, on the following grounds, viz. 1st, That much must of necessity depend upon the details of the act which Congress might pass; 2dly, more on the condition of the country at the time of the passage, and the views which the British Government might then have of their interest in the matter; and, 3dly, that any stipulations on the subject would be a virtual departure from the ground taken by his Government to regulate the trade by law, and to decline all further negotiation concerning it.

The last information in the possession of this Government, in relation to the views of the present British ministry upon this subject, is derived from Mr. Barbour in January last. He states that, in a communication held with Lord Aberdeen, in the presence of the Duke of Wellington, the former expressed his desire of having the colonial trade question judiciously adjusted, and his conviction that the interdict was injurious to the colonies, without a proportionate benefit to any other section of the empire. But, from subsequent conversation with his lordship, and from information derived from other sources, Mr. Barbour was induced to believe that the British Government does not contemplate any relaxation of its colonial system in favor of this country; that our late tariff, together with a strong conviction of their incapacity to compete upon equal terms with our navigation, contributes to this disposition; and that that Government would



willingly withdraw the privileges of trading with its colonies, which it has granted to other nations, if that could conveniently be done.

Such is the present state of our commercial relations with the British colonies; and such the steps by which we have arrived at it.

In reviewing the events which have preceded, and more or less contributed to, a result so much to be regretted, there will be found three grounds upon which we are most assailable: first, in our too long and too tenaciously resisting the right of Great Britain to impose protecting duties in her colonies; secondly, in not relieving her vessels from the restriction of returning direct from the United States to the colonies, after permission had been given by Great Britain to our vessels to clear out from the colonies to any other than a British port; and, thirdly, in omitting to accept the terms offered by the act of Parliament of July, 1825, after the subject had been brought before Congress, and deliberately acted upon by our Government. It is, without doubt, to the combined operation of these causes that we are to attribute the British interdict. You will, therefore, see the propriety of possessing yourself fully of all the explanatory and mitigating circumstances connected with them, that you may be enabled to obviate, as far as practicable, the unfavorable impression which they have produced.

The trade, although not wholly suppressed, is altogether changed in its character. Instead of being direct, active, and profitable as it once was, it is circuitous, burdensome, and comparatively profitless. The importation of the produce of the British West India colonies into the United States may be said to have substantially ceased. It is wholly prohibited in British vessels, and allowed only direct from the producing colony. By the orders in council, the admission of American vessels is prohibited. Consequently, whatever of British West India produce is brought into this country (with the exception of what has been recently allowed to be imported from the Bahama islands, and the island of Anguilla) must either be brought by the vessels of other nations, which are permitted, under the act of Parliament of July, 1825, to clear from the colonies for any other ports, except in Great Britain and her possessions, or it must be imported as the growth or produce of other colonies, to which the vessels of the United States are admitted, and thus introduced in evasion of our law.

The export trade has been more considerable, though greatly and injuriously reduced. The decrees of nature, by which the British West Indies are made dependent on the United States for a great portion of their necessary supplies, though erroneously resisted, have not been altogether frustrated by the retaliatory and improvident legislation of the two countries. Large quantities of American productions still find their way to the colonies. The uncertainty as to how much of our produce is used in the ports to which the exportations are nominally made, renders it impossible to speak with accuracy as to the amount actually consumed in the British West India colonies since the ports were closed. In the opinion of intelligent merchants, it is about half as much as immediately before the interdict. It is carried in American vessels to the islands of St. Thomas and St. Bartholomew on the one hand, and to the open ports in the British North American possessions on the other. From those ports, it finds its way to the British West India colonies, under different regulations, in British vessels. This trade is burdened with double freight and insurance, the charges of landing and reshipping, and also commissions and duties in the neutral ports, for that portion which goes by the way of St. Thomas and St. Bartholomew. The extra expenses thus produced have been estimated at fifty per centum on the first cost of lumber, and at from fifteen to twenty per centum on provisions. A great reduction of the quantity of our ex-

ports, and the entire exclusion from the trade of many articles of a perishable nature, which cannot now be sent in consequence of the increased length of the voyage, are the chief injuries which result to our citizens from this state of things. It oppresses the West India planter, by unavoidably increasing the prices of such articles of American produce as he still finds it his interest to purchase, notwithstanding the disadvantages imposed upon their introduction. It is, moreover, understood, that the indirect trade is carried on on British account, and that, therefore, the principal part of the extra expenses to which it is subjected comes ultimately out of their pockets.

It is the anxious wish of the President to put an end to a state of things so injurious to all parties. He is willing to regulate the trade in question upon terms of reciprocal advantage, and to adopt for that purpose those which Great Britain has herself elected, and which are prescribed by the act of Parliament of 5th July, 1825, as it is understood by us. You are directed to make a full and frank exposition of the views and wishes of the President in this respect, at as early a period, and in such manner, as you may judge best calculated to accomplish them, and to put it in his power to communicate the result of this overture to Congress at the opening of the next session. He is admonished by the past of the inutility of protracted discussions upon a subject which has been over and over again debated. He does not, therefore, wish to occupy you, or harass the British cabinet by their repetition. You are authorized to say to the British Government, on the part of the United States, that they will open their ports to British vessels coming from the British colonies, laden with such colonial productions as can be imported in American vessels, and upon terms in all respects equally favorable; and that they will also abolish the restriction contained in our act of 1823, confining the trade to a direct intercourse, upon condition that Great Britain will allow American vessels the privileges of trade and intercourse which were offered by the act of the 5th of July, 1825.

The President indulges a confident expectation that the British Government will assent to an adjustment upon these terms. He is compelled to think so, from a conviction that such an arrangement would promote the true interests of both parties—a result which he is confident is as much desired by Great Britain as it can be by himself, because she has heretofore given her deliberate assent to these terms; (and he finds nothing in the condition of the question which renders them less proper now than they were then;) and, finally, because he is unwilling to believe that Great Britain would make so invidious a distinction as to exclude us from a trade which she allows to the rest of the commercial world. The United States do not controvert her right to monopolize the trade with her colonies; and if the same interdict which excludes them from her colonial ports was extended to others, they would not complain. But the British Government cannot be insensible to the tendency which a discrimination of the character referred to must unavoidably have, to alienate those liberal and friendly feelings now entertained towards her by our people, and which it should be the pleasure, as it is the duty, of both Governments to cherish and perpetuate.

If the omission of this Government to accept of the terms proposed, when heretofore offered, be urged as an objection to their adoption now, it will be your duty to make the British Government sensible of the injustice and inexpediency of such a course.

The opportunities which you have derived from a participation in our public councils, as well as other sources of information, will enable you to speak with confidence (as far as you may deem it proper and useful so to do) of the respective parts taken by those to whom the administration of this Government is now committed, in relation to the course heretofore pursued upon the subject of the

colonial trade. Their views upon that point have been submitted to the people of the United States; and the counsels by which your conduct is now directed are the result of the judgment expressed by the only earthly tribunal to which the late administration was amenable for its acts. It should be sufficient that the claims set up by them, and which caused the interruption of the trade in question, have been explicitly abandoned by those who first asserted them, and are not revived by their successors. If Great Britain deems it adverse to her interests to allow us to participate in the trade with her colonies, and finds nothing in the extension of it to others to induce her to apply the same rule to us, she will, we hope, be sensible of the propriety of placing her refusal on those grounds. To set up the acts of the late administration as the cause of forfeiture of privileges which would otherwise be extended to the people of the United States, would, under existing circumstances, be unjust in itself, and could not fail to excite their deepest sensibility. The tone of feeling which a course so unwise and untenable is calculated to produce, would doubtless be greatly aggravated by the consciousness that Great Britain has, by order in council, opened her colonial ports to Russia and France, notwithstanding a similar omission on their part to accept the terms offered by the act of July, 1825.

You cannot press this view of the subject too earnestly upon the consideration of the British ministry. It has bearings and relations that reach beyond the immediate question under discussion.

Should the amount of our protecting duties upon the productions of her colonies, or upon the manufactures of the mother country, be referred to, in connexion with this matter, you will be at no loss for the reply. The duties upon our agricultural productions, when imported into Great Britain, are, beyond comparison, greater than those imposed by the United States on the productions or manufactures of Great Britain or her colonies; and the denial of her right to impose duties on articles the production of the United States, when imported into the colonies, in order to protect those of the colonies themselves, or of the mother country, was a leading and avowed motive for the stand taken by Great Britain in relation to the colonial trade. This is a subject on which each nation must judge for itself. It is one upon which, it is well known, there exists great diversity of opinion among our own citizens, but in respect to which no stipulations can be made with a foreign Power, at least without reciprocal engagements on the part of such Power—engagements into which there is no reason to believe that the Government of Great Britain would at this time enter. If, by the imposition of those duties, the United States can secure the production of the same articles at home, it is their right and their duty to persevere. If not, the principal burden falls upon their own citizens, and consequently furnishes no cause of complaint on the part of others.

If the encouragement, by Great Britain, of her North American possessions in the growth and production of similar articles to those with which we supply her West India colonies, is the motive, the objection is no less obvious. To that end, the parent Government now exercises, without complaint or objection on our part, the common right of imposing higher duties on articles which are not, than on those which are, the growth or produce of their North American possessions; and, in doing so, she exercises to the full the right conceded to all nations, of encouraging home productions by the imposition of protecting duties. The exclusion of one nation from the privilege of bringing into the ports of another articles that come in competition with home productions, whilst their introduction is conceded to the rest of the world, is a measure which cannot find its justification in any principles applicable to the protective system. If, however,

the President should be disappointed in his expectations, founded on these and other corresponding views of the subject, he wishes you to ask (a request which he is confident will be readily granted) that you may be favored with an early and definitive answer to the propositions you are authorized to submit. He makes this appeal to the candor of the British Government, that he may be enabled (in the event alluded to) to lay before Congress, at the commencement of the next session, the result of this overture, to the end that that portion of the capital and enterprise of our country, which is now waiting the decision of the question, may seek other channels of employment.

Should your advances be met in the spirit in which they are offered, it will become important to consider of the form in which the proposed adjustment ought to be made.

This Government has heretofore strenuously contended for an arrangement by treaty, and that of Great Britain has as strenuously opposed any other mode than that of separate legislation. The President is willing to adopt either mode. If the views of the British Government are now different in that respect, and an arrangement by treaty be acceptable, you are authorized to conclude it upon the principles of these instructions. In that event, the President relies upon your known discretion and intelligence, that the articles to which you agree shall be in such form as will carry into full and fair effect the views of this Government as now expressed.

If (which is most probable) a resort to mutual legislation is preferred, the consideration of the mode best calculated for the satisfaction of both parties will occupy your attention.

That may be effected in one of two ways, viz. either by an order in council, opening the British ports to American vessels after a certain day, in the event of the United States having before that time complied with the conditions of the act of Parliament of the 5th of July, 1825, by opening our ports to the admission of British vessels, and allowing their entry with the same kind of British or colonial produce as may be imported in American vessels, the vessels of both countries paying the same charges; by suspending the alien duties on British vessels and cargoes, and by abolishing the restrictions in our act of 1823 to the direct intercourse between the United States and the British colonies—thus leaving Great Britain in possession of the circuitous trade between Great Britain proper and the United States, through the British colonies. Or, the President will recommend the same measures to Congress at their next session, on being assured by the British Government that the passage of an act of Congress to that effect will lead to the revocation of the British order in council of July, 1827, to the abolition or suspension of all discriminating duties on American vessels in the British colonial ports, and to the enjoyment by us of the advantages of the last mentioned act of Parliament.

You are authorized to agree to either mode, but the former is, for many reasons, to be preferred. In all that is said upon the subject, it must be borne in mind that the President, whatever may be his wishes, or the course he might otherwise adopt, has no authority to move in the matter without the aid of Congress. The only laws relating to this subject, now in force, are the acts of 1818 and 1820, by virtue of which our ports are closed against the admission of British vessels engaged in the colonial trade. They do not confer a dispensing power on the President, and he has no such authority derived from any other source.

Some explanatory act, or a stipulation having a prospective view to such provision as Congress may make, will certainly be necessary to enable the United States to avail themselves of the privileges offered by the act of Parliament of 1825. By that act we are required, as a condition to the enjoyment of its advantages, to place the commerce and navigation of Great Britain and her pos-

sessions abroad upon the footing of the most favored nation. If it is meant by the condition that the commerce and navigation of Great Britain, and of her possessions abroad, shall be gratuitously and generally placed on the same footing with those of the most favored nation, by granting to them privileges which are allowed by us to other nations for equivalents received, it would be wholly inadmissible.

By the laws of both countries, the vessels of each are prohibited from importing into the ports of the other any other productions than those of the country to which such vessels respectively belong. By the laws of the United States, this restriction is applied only to those countries which apply a similar interdiction to our commerce. Almost all other countries have excluded it from their navigation codes: such nations, therefore, enjoy the privilege of importing from any country upon paying our alien duties—a privilege which we cannot extend to Great Britain, because her laws deny it to us.

Our discriminating duties, also, have, in consequence of arrangements by treaty, been abolished as to certain nations, and their vessels and cargoes admitted on equal terms with those of the United States. We have, moreover, treaties with Central America and Denmark, by which it is stipulated that whatever can be imported to, or exported from, either country, from or to any foreign place, in its own vessels, may be so imported or exported in the vessels of the other country, on the payment of the same duties. Should the terms "most favored nation" be understood by Great Britain in the sense I have referred to, she would entitle herself, in case of a literal compliance on our part with the terms of the act of 1825, to all those privileges for her European navigation and commerce, without reciprocating them to the United States—a privilege she would, it is hoped, be too just to desire, and which, certainly, the United States could not for a moment think of granting. The force of these objections, and the necessity of preliminary explanations upon this head proceeding from the British Government, was virtually admitted by Lord Dudley, in his reply to Mr. Gallatin's notes of the 4th of June and 17th of July, 1826; but he considered them as answered by the statement of Mr. Gallatin, that the President was willing to recommend certain specific measures to Congress, as a fulfilment of the conditions of the act of 1825, and the President would have adopted them himself if he had been clothed with authority to that effect.

The simple and sufficient reply to this view of the matter is, that those measures were proposed by the United States, not as a strict compliance with the conditions required, but as all that they could offer, and with an accompanying declaration that they fell short of what the act of 1825 required, and would still leave our commerce with the colonies dependent upon the future dispensation of the British Government. The validity of this opinion Lord Dudley did not attempt to controvert.

If it is then true that either further preliminary legislative acts, or a prospective stipulation on the part of Great Britain, be necessary, a previous order in council should be preferred: First. Because it would obviate the two principal objections stated by Lord Dudley to her binding herself for the future. Those objections were, that the future course of Great Britain must, necessarily, in part, depend upon the details of such act as Congress might pass; and that the very fact of making such a stipulation would be a departure from a ground which their Government had taken upon full deliberation, that they would not suffer themselves to be drawn into any negotiation upon the subject of the colonial trade, but claimed for themselves the right to regulate it by their own separate and independent legislative acts. The mode proposed would manifestly obviate the first objection, and avoid the other. Secondly. Because such an act on the

part of Great Britain, after the past transactions of the two Governments on this subject, could not fail to remove all asperities from the minds of our people, and contribute more than an adjustment in any other form to produce that spirit of mutual kindness between the two countries which it is the interest of both to cherish, and which the President is earnestly solicitous to maintain.

Assuming that the step can be taken by Great Britain (as it assuredly can) without disparagement, the consideration stated would, it is believed, have a persuasive influence on her conduct. In issuing such an order in council, the British Government would only be acting upon the same policy which it has in part already pursued in relation to the Bahama islands and the island of Anguilla. Great Britain revoked her order in council of July, 1827, as to those islands, because it was required by a due regard to her interests. That being ascertained, no consideration of form or matter of feeling was allowed to interfere. What good reason can be assigned why the same should not be done for the maintenance of greater interests, and under more eligible circumstances? Should that mode, however, be declined, it is hoped that the only remaining one will be adopted without hesitation.

I will add nothing as to the impropriety of suffering any feelings that find their origin in the past pretensions of this Government to have an adverse influence upon the present conduct of Great Britain. Without such an assurance on her part, your mission, so far as relates to the colonial trade, must be wholly inoperative. If this result is produced by a real change of opinion on the part of the British ministry with respect to the reciprocal advantages of the trade, and a determination to exclude the United States from it, in order to promote her own interests, and that is frankly and promptly avowed, the whole matter will be at least intelligibly concluded. If, however, they are not prepared to take this ground, but suffer themselves to desire that the United States should, in expiation of supposed past encroachments, be driven to the necessity of retracing their legislative steps, without knowledge of its effect, and wholly dependent upon the indulgence of Great Britain, they cannot be insensible of the extreme improbability that any further measure will be taken by Congress, before whom (in the event alluded to) it would probably be the pleasure of the President to lay the whole matter.

*Extract of a letter, dated 5th August, 1829, from Mr. Van Buren to Mr. McLane, then at New York.*

I forgot to speak to you upon the subject of the probable impression that will be made upon the British ministry by the rumors and speculations that have appeared here in regard to the character of your instructions, and to suggest the importance of putting them informally, but fully and early, in possession of your views upon that point.

*Mr. McLane to the Earl of Aberdeen.*

9, CHANDOS STREET, CAVENDISH SQUARE,  
December 12, 1829.

MY LORD: I had flattered myself with the hope of receiving before this time a decisive answer from his Majesty's Government to the propositions which I had the honor to make some time since for an arrangement of the trade between the United States and the British American colonies; but, while I regret the delay that has taken place, I am aware that it has hitherto been unavoidable. In the hope, however, that, after the various conversations which I have had the honor to hold with his Majesty's ministers in the course of this negotiation, they may be prepared definitively to dispose of the subject, I beg leave to make your lordship the present communication.

In entering upon the negotiation, I separated this from the other objects of my mission, and presented it singly before his Majesty's ministers, that it might receive their early consideration and prompt decision, and that I might thereby the better promote the views and wishes of my Government. I early informed your lordship of the anxious desire of the President of the United States that the question may be put immediately and entirely at rest. In this he is influenced not merely by a wish to liberate and give activity to such portion of the capital of his fellow-citizens as may be awaiting the decision of this question, but also by the higher motive of speedily terminating a state of things daily becoming more prejudicial to the friendly relations of the two countries.

Disclaiming, on the part of the United States, in reply to certain observations of your lordship, all hostility to this country in their system of protecting duties, and disconnecting that system from any arrangement of this particular question, I endeavored to lay this subject before his Majesty's ministers divested of all considerations but such as peculiarly relate to this branch of the commerce between the two nations.

Conceiving that experience had already proved the existing colonial regulations to be injurious to the interests of both countries, the President was induced to hope that true policy alone would dispose his Majesty's Government to change them. He could perceive no good reason why Great Britain should now refuse her assent to the terms of arrangement which she herself had heretofore voluntarily proposed; and, as the order in council of July, 1826, did not embrace Russia and Sweden, though both were within the scope of the act of 1825, and as it had been subsequently rescinded as to Spain without equivalent, he was unwilling to suppose that any unfriendly motive could induce a peculiar and permanent exclusion of the United States from participation in a trade thus conceded to the rest of the world.

In fact it appeared that a material alteration had taken place in the colonial system, and in the relations between the two countries, produced by the recent relaxation of the order in council in favor of Spain, which left the United States the sole excluded power, and by the injurious operation of the existing regulations upon the interests of Great Britain. It was not unreasonable, therefore, to suppose that the negotiation might be advantageously resumed; that the British Government might be induced to rescind entirely their order in council of 1826, and that a satisfactory arrangement might immediately be made by the reciprocal acts of both Governments.

In the course of my negotiation, however, I have met with difficulties much greater than had been anticipated. There were objections opposed to any arrangement. Among these were the measures of the United States restricting the British colonial commerce subsequently to their failure to accept the terms offered by the act of Parliament of 1825, and the claims to protection urged by those interests which are supposed to have grown up in faith of the act of 1825, and the order in council of 1826. Indeed, I distinctly understood that these were insuperable obstacles to any relaxation in the colonial system of Great Britain, unless some previous change should be made in the legislation of the United States.

With this understanding, though I by no means admitted the force of these objections, I deemed it expedient, in this state of the negotiation, to make the following proposition: That the Government of the United States should now comply with the conditions of the act of Parliament of July 5, 1825, by an express law opening their ports for the admission of British vessels, and by allowing their entry with the same kind of British colonial produce as may be imported in American vessels, the vessels of both countries paying the same charges; suspending the

alien duties on British vessels and cargoes, and abolishing the restrictions in the act of Congress of 1823 to the direct intercourse between the United States and the British colonies; and that such a law should be immediately followed by a revocation of the British order in council of the 27th July, 1826, the abolition or suspension of all discriminating duties on American vessels in the British colonial ports, and the enjoyment, by the United States, of the advantages of the act of Parliament of the 5th of July, 1825.

By this offer on the part of my Government, I hoped to remove even the pretence of complaint against its measures; and I trusted that, in thus throwing open, by its own act, to all of his Majesty's subjects, a trade at present enjoyed by but a few, it would effectually silence those partial interests which, springing out of a system of restriction, and depending as much upon the countervailing laws of the United States as upon the regulations of their own Government, subsist entirely upon the misfortunes of the British West India planters, and the embarrassments of the general commercial capital and enterprise of both nations.

In repeating the proposition, as I now have the honor to do, and in renewing my solicitation that it may be taken into early and candid consideration, and produce a prompt and favorable reply, I refrain from leading to further discussion and delay by a more detailed reference to the various suggestions by which, in the course of the negotiation, I have had the honor to recommend it.

Entertaining, however, the conviction I have heretofore expressed, of the wasting effects of the present regulations upon the substantial interest of the two countries, I cannot close this letter without again remarking that delay can only tend to increase the difficulties on both sides to any future adjustment, and that it will be difficult for the United States to reconcile the marked and invidious relation in which they are now placed with their idea of justice, or with the amicable professions of this Government. That relation involves consequences reaching far beyond the immediate subject in discussion, and of infinitely greater importance to the future intercourse of both countries than any value which the trade affected by these regulations may be supposed to possess.

It is this view of the subject which unites the sympathy of all interests in the United States with their commercial enterprise, which touches the pride and sensibility of every class of their population, and which, I trust, will make its due appeal to the candor and liberality of his Majesty's Government.

I pray your lordship to accept the assurance of the high consideration with which I have the honor to be your lordship's most obedient and very humble servant,

LOUIS McLANE.

To the Right Honorable the  
Earl of ABERDEEN, &c.

*The Earl of Aberdeen to Mr. McLane.*

FOREIGN OFFICE, December 14, 1829.

SIR: I have had the honor to receive your letter of the 12th instant, formally recording the desire entertained by the Government of the United States (and previously declared by you in verbal conferences) for the removal of the existing restrictions on the intercourse between the British West India colonies and the United States, with the view of placing the commerce of the two countries on a footing more consonant with the substantial interests of both nations, and with the amicable relations which happily subsist between them.

I shall lose no time in bringing the propositions contained in your letter under the consideration of his Majesty's Government.

Whatever may be the result of their deliberations on

this question, of which you are already apprised of some of the difficulties, you may be assured that his Majesty's Government will enter into the consideration of it with the most friendly feelings towards the Government of the United States.

I have the honor to be, with high consideration, sir, your most obedient, humble servant,

ABERDEEN.

LOUIS McLANE, Esq. &c.

*Mr. Van Buren to Mr. McLane.*

DEPARTMENT OF STATE,  
Washington, December 26, 1829.

Your despatch No. 5 has been duly received, and submitted to the President. From subsequent but unofficial information, he is induced to believe that the British cabinet are disposed to reciprocate the liberal views by which he is himself actuated, by the adoption of some just and equally beneficial arrangement in regard to the colonial trade: but that, for reasons applicable to their side only, they desire a short delay before a final decision is made upon the subject. Confiding in the sincerity of the professions which are understood to have been made to you, and equally anxious to remove all grounds of uneasiness between the two countries, the President has directed me to communicate to you his views in regard to the question of time. This shall be done in the same frank and friendly spirit which characterizes your general instructions in this regard, and which has left in them nothing that requires concealment. Not foreseeing any difficulty or embarrassment to the British Government in coming to a prompt decision upon that branch of the subject of difference between the two countries, you were instructed to ask for such decision at as early a period as should be found consistent with perfect respect and courtesy. The motive of this Government for pursuing that course was avowed to consist in a belief that no practical good could result from a protracted discussion of matters already so fully debated, and in a desire to communicate the result, whatever it might be, to Congress, for its own action, and the information of its constituents. The explanations which are understood to have been made to you by the leading members of the British cabinet, are, however, sufficient to induce the President to acquiesce in a compliance, on your part, with their wishes in regard to time, provided the proposed delay be not such as to defeat the expressed views of this Government in case of a result adverse to its wishes. For the probable length of the present session, and the period at which the President ought to be possessed of the final decision of the British Government, to enable him to lay it before Congress in due season, your own judgment and knowledge of circumstances may, with safety, be relied upon. The reasons for doing so at an early period are very strong; but the President is disposed to content himself, under existing circumstances, with any course which will enable him to protect the interests of this country from the injuries that might result from long delay. Your intimate acquaintance with the whole subject renders it unnecessary for me to enter into a particular consideration of the measures which would, most probably, be regarded by this Government as proper and expedient, on our part, in the event of an entire failure of the negotiation, and enables you to form a proper estimate of the value of time in respect to the utility of their adoption. You will be governed, accordingly, by a view of all these circumstances, as to the extent of the proposed delay which would be acceptable here, in reference to the adjustment of this important interest.

Independently of the steps necessary and practicable to open and improve new channels for the trade which would thus be permanently abandoned, the justice and propriety of defeating the interested views of the Northern British

colonies is a subject which is earnestly pressed upon the consideration of this Government.

The desire so strongly manifested in that quarter to give permanency to a state of things altogether artificial in its character, and as much at variance with the repeated and solemn opinions of both Governments as with the best interests of the two countries, has excited much sensibility here; and the active agency which that interest is understood to exercise in thwarting your efforts to place matters on their only natural and true footing, serves greatly to increase that feeling. The propriety of an immediate legislative provision, prohibiting our trade with the Canadas, and other free ports, after a certain day, if the present colonial regulations of Great Britain should at that time remain unchanged, is strongly advocated; but the President is disinclined to bring that subject to the notice of Congress during the pendency of your negotiation, by the apprehension that the step might, under these circumstances, be regarded as wearing the appearance of menace, and thus give an acrimonious character to a negotiation which it is his wish should be of the most kind and amicable nature.

It is hoped that the President's message will aid the liberal views which the principal members of the British cabinet are understood to entertain upon this point, by disabusing the mind of the English public in regard to the views and wishes of this country, and by impressing it with just notions of the sentiments of the President. There certainly never was a time better calculated for the improvement of the relations between the two countries than the present. The solicitude sincerely felt by the President upon this head, is greater than the occasion referred to would allow him to express: and I am persuaded that there has been no event in his public life that has caused him as much regret as he would experience in failing to be instrumental in the establishment of the very best understanding between the United States and Great Britain.

I am, sir, with great respect, your obedient servant,  
M. VAN BUREN.

*Mr. McLane to the Earl of Aberdeen.*

9, CHANDOS STREET, PORTLAND PLACE,  
London, March 16, 1830.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States of America, in calling the attention of the Earl of Aberdeen, his Majesty's principal Secretary of State for Foreign Affairs, to a proposition which he had the honor to submit in writing on the 12th of December last, for an arrangement of the trade between the United States and the British American colonies, and in praying for a decision thereupon, is influenced, not merely by considerations of duty, urging him to avoid further delay, but by a hope that the time already afforded for deliberation has been sufficient to enable his Majesty's ministers to judge of the reasonableness of his demands.

The Earl of Aberdeen is already aware that, whatever may be the disposition which his Majesty's Government may now be pleased to make of this subject, it must necessarily be final, and indicative of the policy to which it will be necessary, in future, to adapt the commercial relations of each country. As the regulations on the part of the United States which will follow the decision of this Government can be adopted by the Congress alone, it becomes the duty of the undersigned to ascertain and transmit such decision during the present session of that legislative body. But, while the undersigned again solicits the earliest convenient answer to his proposition, he cannot but repeat that it will be happy for both countries if their measures shall coincide in cultivating those liberal principles of mutual accommodation which are the elements of common prosperity and united strength.



However the fact may be regretted and condemned by enlightened statesmen, it cannot be concealed that ancient prejudices and unworthy animosities do still linger among the people of both countries; and the Earl of Aberdeen has been too distinguished an observer of events, not to perceive the operation of those causes in fostering a spirit of commercial jealousy, especially in relation to the colonial trade.

It should be the desire, as it is the interest, of both Governments to extinguish these causes of mutual bitterness; to correct the errors which may have interrupted the harmony of their past intercourse; to discard from their commercial regulations measures of hostile monopoly; and to adopt, instead, a generous system of frank and amicable competition.

There has never occurred, in the history of the two countries, a fairer opportunity than the present to effect this desirable object; and the undersigned feels pleasure in remarking the favorable disposition professed by both Governments on the subject. He begs to suggest, however, that this period of amicable expressions deserves also to be signalized by acts of mutual concession, which may remain to the people of both countries as earnest of those liberal relations which their Governments have resolved to cultivate. Such would be embraced in the proposition which the undersigned has already had the honor to submit; namely, that the United States should do now that which they might have done in 1825—rescind the measures which may be alleged to have contributed to the present evil, and repeal the laws which have been matters of complaint; and that England should assent now to a measure which, but a few years since, she herself proposed.

The undersigned is unwilling to pass from this topic without reassuring the Earl of Aberdeen that it is from considerations of this kind that the subject derives its highest importance in the view of his Government. There is no disposition to deny the injurious effects of the existing regulations upon the commercial and navigating enterprise of the people of the United States, associated, as it evidently is, with the substantial prosperity of the British West India colonies. Much of the injury, however, and especially that arising from the temporary inactivity of a portion of American capital, might soon be remedied by acts of the Legislature, opening new channels for commercial enterprise. But the evil most to be apprehended is, that, in recurring, on both sides, to the remedy of legislative enactments, a spirit of competition might be immediately awakened, which, however dispassionately it might commence, would be too apt, in a little while, to become angry and retaliating. In cases of the kind, as has been too well proved, one step necessarily leads to another, each tending more and more to estrange the two nations, and to produce mutual injuries, deeply to be deplored when they can no longer be remedied.

It is far from the intention of the undersigned to intimate that the United States could be disposed to complain of any commercial regulation of Great Britain, which, by a system of reasonable preference, should consult the interests of her own subjects, provided it were done in a spirit of amity and impartiality, and that it should place all nations on an equal footing. But, when the United States shall think they have grounds to consider themselves singled out from all other nations, and made the exclusive object of an injurious regulation; when they shall imagine it levelled at their prosperity alone, either in retaliation of past deeds, or for interested purposes—to secure some adventitious advantage, or to encourage a hostile competition, by means of commercial monopoly; however justifiable, in such case, they may admit the regulation to be, in point of strict right, they will hardly be able to refrain, not merely from complaint, but from a course of measures calculated, as they may think, to avert

the intended injury, though pregnant, perhaps, with consequences to be ultimately lamented.

While the undersigned would, in no degree, impair the full force of these considerations, he would, at the same time, be distinctly understood as not employing the language of menace. He has conducted his whole negotiation with an unfeigned and anxious desire to see the relations of the two countries placed on a footing equally advantageous and honorable to both, as the only means of ensuring lasting amity; but, being profoundly sensible of the causes by which this desirable object may be defeated, he has framed his proposition in such a manner as to enable his Majesty's ministers to co-operate in his views, without departing from the principles of their system of colonial trade and government. To this effect, the proposition which he has had the honor to submit concedes to Great Britain the right of regulating the trade with her colonies according to her own interests, and asks no exemption from the discriminating duties which she has instituted in favor of her own possessions. It invites a participation in a direct, rather than a circuitous trade, upon terms which Great Britain deliberately adopted in 1825 as beneficial to her colonies, and which she continues to the present day to allow to all the rest of the world. A rejection of it, therefore, would appear to result, not from any condemnation of the direct trade, or any conviction of the impolicy of permitting it with the West India colonies, but rather from a determination of excluding from it the commerce of the United States alone.

It is not the intention of the undersigned to undertake here the difficult task of minutely recapitulating on paper the various suggestions by which, in the course of his conferences with his Majesty's ministers, he has endeavored to enforce an arrangement on the terms heretofore stated. He trusts, however, to be excused, if, in making this last application for an early decision, he should recur to a few of the more leading considerations connected with the present state of the negotiation.

And here the undersigned begs leave to observe, that, whatever hope he may have indulged on this subject at any period of the negotiation, it has been founded, not so much upon the expectation of peculiar favor to the United States, as of a liberal compliance, by His Majesty's Government, with its own regulations, in allowing the United States to participate in a trade permitted to all the rest of the world, so far as their participation should contribute to the purposes for which such trade was, in any manner, authorized.

The arrangement, therefore, proposed by the undersigned, does not urge upon the British Government a departure from what may be considered its ordinary colonial regulations, for the benefit of the United States, but a recurrence to a course of trade beneficial alike to the commerce of the United States and the colonial interests of Great Britain, and which has been interrupted by causes not foreseen by the latter, and highly disadvantageous to both nations.

It was the hope of the undersigned, that, if the interests of that portion of the British dominions which, in the sixth year of his present Majesty's reign, dictated the regulations proposed by the act of Parliament of that year, could be subserved by their adoption now, Great Britain would not be prevented, by any causes accidentally or improvidently arising, or by any exclusive policy towards the United States, from renewing now the offer she then made.

The undersigned is not disposed to deny that any departure from the rigid policy by which the colonies are excluded from all commercial intercourse, except with the mother country, must be founded on the interests of the colonies themselves, and it will be doubtless conceded that such was the object of the regulations proposed by the act of Parliament of 1825, which were intended to fur-

nish the British West India islands with a more extensive market for their productions, and with the means of supplying themselves, on the cheapest terms, with all articles of foreign produce of which they might stand in need.

The act of 1825 was, in fact, a relaxation of the previous policy, affording to the West India colonies advantages of trade which they had not previously enjoyed, and offering the benefit of their commerce to all the world. It will scarcely be denied that this relaxation was dictated by a wise regard for the peculiar wants of those islands. Abundant proof of this may be found in the reciprocal privileges granted at the same time to the other possessions of Great Britain, the interests of which might be supposed to be affected by these regulations; and more especially in the privileges conferred on the Northern possessions, of introducing their grain into England at a fixed and moderate duty, and of receiving in exchange, and importing directly from all parts of the world, productions similar to those of the West India islands; and also in the reduction of the duty on the Mauritius sugar, in the ports of Great Britain, to an equality with that on the West India sugar.

It will scarcely be doubted that these privileges were fully commensurate with the object. Indeed, it must be perceived that they were of extensive scope and growing importance, materially affecting the present and prospective trade of the West India planters. They conferred on the Northern possessions a free and direct trade, not only with the European ports, but with the continent of South America, in which are countries daily increasing in resources, and destined, beyond a doubt, when the advantages of their soil and climate shall be properly cultivated, to become rival growers of the West India produce.

It may be safely affirmed that these are privileges of greater magnitude than any conferred by the same act on the West India islands; and it is worthy of remark, that they are still enjoyed by those possessions, constituting a source of profit and prosperity; while of those for which they were given as an equivalent, the West India planter has been almost ever since deprived.

It could not be imagined that the remotest forethought was entertained of this state of things, by which the West India islands would ultimately be deprived of their most natural and profitable market, and their interests sacrificed to the adventitious prosperity of possessions which already, in the privileges heretofore alluded to, and in the scale of discriminating duties provided by the act of Parliament, enjoyed advantages equivalent to any accorded by the protecting policy of Great Britain. Much less could the undersigned permit himself to suppose that the act of 1825 contemplated any other objects than those which it ostensibly imported, or that those objects could be permanently defeated by accidental causes.

The undersigned need not here enter into a particular defence of the omission on the part of the United States seasonably to embrace the offer of the direct trade made by Great Britain in the year 1825, and to which allusion has so frequently been made. Whether it be a subject more of regret or of censure, it ought to be enough that the claims advanced in justification of it have since been abandoned by those who made them, have received no sanction from the people of the United States, and that they are not now revived. If it be the intention of Great Britain to perpetuate the present state of things from a belief that it is more for her interest, she will require no warrant from the past; and if she intend it for any other purpose, the mistakes of the past will not justify a policy observed towards the United States alone, while unenforced against other nations chargeable with similar neglect. If these mistakes have led to the mutual injury of both countries, there ought rather to be inspired a disposition to remedy such injury, and to prevent its future recurrence.

The undersigned, therefore, may be content to admit

that, in consequence of the failure by the past administration of the Government of the United States to comply with the provisions of the act of Parliament of 1825, by repealing certain restrictions in their laws deemed incompatible with the interests of the colonies, Great Britain thought proper, by order in council, to exclude them from the direct trade authorized by that act. But it cannot, therefore, be supposed that they were thus excluded because Great Britain had repented of the regulations of 1825, which she continued to extend to all other nations, though some of them, too, had neglected the conditions of that act; neither could it be supposed that the importance of a direct trade with the United States had in any degree diminished.

It is not a fair inference from any measure, neither is it avowed on the face of any public document of Great Britain, that, by the interdict applied by the order in council, she intended, permanently and unchangeably, to deprive the United States and her West India islands of the benefit of a direct trade, which had always been deemed of the first importance to both. The opposite is the natural inference; and it is due to the character of Great Britain, and to her knowledge of her true interests, to believe that the adjustment of trade with her several possessions by the act of 1825, was, in her opinion, salutary, and that she ought to secure it in every part, and to give it more complete effect, by her order in council, the true intent of which was to exclude the United States from the direct trade merely until they should consent to engage in it on terms mutually advantageous. It was thus, whilst her other possessions were left in the enjoyment of their privileges, Great Britain intended to secure to the West India islands the commercial benefits which had been designed for them by these regulations.

Nor are the answers heretofore given by this Government in the course of previous negotiations, incompatible with this interpretation of the order in council. After applying the interdict for the purposes of the act of 1825, it was not unreasonable that the time of its removal should be adapted to the same ends. It might have been designed, not merely to evince the predilection of Great Britain for regulations adopted in 1825, but to manifest to all other nations the mutual advantages of that course of trade, and to yield to a liberal spirit when that effect should be produced. The language of the late Mr. Canning, and of Lord Dudley, authorizes this belief. Mr. Canning said no more than that the British Government would not feel bound to remove the interdict, as a matter of course, whenever it might suit a foreign nation to reconsider her measures; implying, surely, that, under other circumstances, our overture would not be rejected. In the negotiation with Mr. Canning, moreover, the American pretensions, which, before that time, had embarrassed an arrangement, were not conceded; and on that ground, particularly, Mr. Gallatin's proposition was then declined. At the time of the negotiation with Lord Dudley, neither party had felt the effects of a state of things which neither had ever contemplated, and for which Great Britain had never, until then, manifested any desire.

Without attempting here to point out the error of Lord Dudley's conception of Mr. Gallatin's proposition, the undersigned contents himself with suggesting that his answer most particularly referred to the proposition merely in regard to the form and the time. It neither said nor intimated, as, had such been the intention, it unquestionably would have done, that Great Britain designed, by the order in council, permanently to abandon the objects of her act of 1825.

It must be admitted that such inference would be incompatible with the views entertained by the present ministry, as expressed in the order in council of 1828, gratuitously extending and continuing to Spain the privileges granted by the act of 1825, which she, also, had

forfeited, by failing, up to that period, to comply with the conditions.

On no supposition, consistent with ordinary impartiality towards a friendly nation, can this order be reconciled, than that the whole subject rested in the discretion of the ministry, to be changed and modified at any time when they might deem it expedient.

The undersigned, therefore, takes leave to suppose that the present state of things is new and unexpected in the colonial history of Great Britain; that the interests and advantages dependent upon it are adventitious, subordinate, if not opposed, to the objects of the act of Parliament of 1825, and injurious to the interests contemplated by that act; and that it was neither intended to be produced nor perpetuated by the order in council of 1826. He is induced, therefore, by these considerations, to renew his hope that the real purposes of that order may now be fulfilled, and the cardinal object of the act of 1825 effectually promoted.

He would venture to ask, moreover, whether those interests which have recently sprung up out of this adventitious state of things, which depend upon accidental causes, and subsist upon the sufferings of others more ancient in standing, and at least equal in magnitude, have any peculiar claim to be upheld. They connected themselves with a course of trade subversive of the leading motives of the act of 1825, and necessarily temporary, and which it would be unreasonable to convert into a permanent arrangement, unless it could be proved that it had attained, or was likely to attain, in some other way, all the objects contemplated by that act.

The regulations of the sixth year of his present Majesty's reign were not adopted without reason, or uncalled for by the condition of the West India colonies. The improvident legislation with which their trade with the United States has been unhappily restricted, subsequently to the year 1822, had produced embarrassments which all acknowledged, and which the measures of 1825 proposed to obviate, by extending the market for their productions, and enlarging the means of a cheap supply.

Such, it must be admitted, was the obvious remedy for the evil; and, if their own picture of actual distress and embarrassment be not overdrawn, the situation of the West India planters is more in need of its application at present than in the year 1825. Seldom, indeed, if ever, have their distresses been more intense, or their supplications for relief more urgent.

It is also true that, according to usual custom in periods of public distress, the evils which now afflict the West India planters have been ascribed to causes various in their nature, and not always consistent. For evils of general prevalence, however, there is always some cause of general and uniform operation; and it certainly is not unfair to argue that the same circumstances which have led to such a calamitous state of things at one period, may lead to similar effects at another; therefore, that an aggravation of those causes which produced the embarrassments prevalent from 1822 to 1825, may produce the same, in a still more oppressive degree, at present, and may render them insupportable hereafter.

That there is an immense reduction in the value of colonial produce, is not a matter of conjectural speculation. It will not be denied that it has been taking place gradually since the interruption of the direct trade, until it may be affirmed that the nett proceeds of a single hogshhead of sugar are less, by ten pounds sterling, than they were in the last year.

It is not a matter of doubt to the undersigned that the total loss to the West India planters of a direct trade with the United States, the most natural source of their supplies, and the most profitable market for their productions, by enhancing the price of the one, and not merely lowering the price, but diminishing the quantity of the other,

is sufficient, without the aid of other causes which might be cited, to produce a state of distress greater even than that of which they at present complain.

The Earl of Aberdeen will scarcely need be informed that the consumption, in the United States, of West India produce is very considerable; but it may not be superfluous to state that, of foreign sugar alone, it is certainly little less than sixty millions of pounds per annum; of foreign molasses, it is not less than thirteen millions of gallons; and of foreign rum, it is equal to three millions and a half; and yet, in consequence of the present embarrassments of the direct trade, the importation of British West India produce has substantially ceased.

It does not appear, in the mean time, that the planter has been indemnified for his loss by any other market. In that of London, he certainly has not: it neither requires the surplus produce thus left on the hands of the planter, nor offers him an equal price for that which it consumes.

The freight to New York is one shilling, and to London five shillings per hundred weight; the difference of insurance between the two places, also, is as one to six per cent. The price of sugar, therefore, ought to be proportionably higher in the London market. The Earl of Aberdeen will perceive, however, by a reference to the prices current of Philadelphia, Boston, and London, already submitted to his inspection, that, instead of being greater, the price is less in the market of London than in that of the United States. The sugar of St. Croix, which is of an inferior quality to that of Jamaica, is quoted in the prices current of the United States at from eight to ten dollars and fifty cents per hundred weight; and while the price of nine dollars and fifty cents, after deducting freight and duty, would nett twenty-five shillings sterling, the prices in London, it is believed, do not nett more than twenty-two shillings per hundred weight, for sugar of similar quality. The undersigned begs leave also to remark, that an examination of the same prices current, for the purpose of comparing the prices of the lower qualities of sugar, as well as of rum, would present a more striking disparity in favor of the market of the United States.

It may not be necessary to assert the impossibility of supplying the West India islands at present without the aid, directly or indirectly, of the United States. If this were not the case, unless the supplies could be drawn from other possessions of Great Britain, the undersigned will not imagine that there could be any motive or pretence, as between other nations, to exclude the United States, more especially as it is not likely that any other nation could furnish them on terms equally advantageous.

But the undersigned may assert with perfect safety, that, for a great portion of their principal supplies, especially flour, Indian meal, rice, boards, staves, and shingles, the West India islands must be, for a long time, dependent upon the United States; for rice, in fact, they must always be so. The proximity of the United States and the West India islands to each other; the adaptation of their productions to their mutual wants; the capacity of the United States to furnish the principal articles of provisions, at all seasons, in a fresh state, and by a cheap navigation; and, above all, the extent and steadfastness of their demand for the island productions, not only constitute them the best customers of the planters, but give them advantages for such a trade not possessed by any other nation. Even the British Northern possessions, if in fact they were equally capable of producing the necessary articles, could not enter into competition upon equal terms. The physical impediments which, for at least half the year, embarrass their intercourse with the islands, compel the latter, during that time, to look elsewhere for any immediate supplies of which they may stand in need.

Not to dwell too minutely on this point, the undersigned will content himself with referring to the general course and extent of this trade in all past times; to the value of

the supplies uniformly furnished by the United States, under all the disadvantages of a restricted and embarrassed intercourse; and to the vast amount which is even now finding its way through indirect and difficult, and consequently expensive channels, under a positive and total interdiction of the direct trade. Surely if other parts, with which the trade is not merely direct, but highly favored, were actually able, from their own resources and productions, to furnish these supplies, there would be no recourse for them to the United States.

The undersigned is unable to speak with precision of the amount of provisions and other articles actually supplied from the United States in the present course of business. There is a difficulty in tracing the trade through the numerous channels into which it has been diverted from its natural course. Tabular statements are not, in all respects, full and accurate; especially when they relate to merchandise transported across the frontier lines, and passing down the St. Lawrence to the Northern possessions; of such there being but little, if any, account taken in the custom-houses.

These circumstances render all conclusions on this subject more or less matters of conjecture. It is the opinion, however, of the most intelligent persons engaged in the trade, both before and since the order in council of 1826, and an opinion which, it is believed, cannot be controverted, that an amount equal to more than a half of that heretofore exported through the direct channels still continues to go by the present circuitous routes. It has even been asserted by intelligent commercial men, that Jamaica has not consumed less of the flour, and provisions generally, of the United States, though at an additional and oppressive expense, than when the trade was direct. The routes through which these supplies now pass comprehend not merely the Northern possessions, which have the solitary advantage of occasionally affording a better assortment of goods, but the islands of St. Thomas and St. Bartholomew, Martinique, Guadeloupe, and the port of St. Jago de Cuba.

It is believed that those facts will be fully sustained, so far as certain official returns in the archives of this Government, to which the undersigned has had access, may be relied on. One of these, being a comparative account of the quantity of provisions and lumber imported into the British West Indies in the years 1825 and 1828, the undersigned has already submitted to the Earl of Aberdeen as deserving of particular attention. It would appear from this, that, of the corn and grain imported into those islands in 1825, amounting to 383,332 bushels, 237,248 bushels were introduced from the United States, 7,012 from the British colonies in North America, 9,249 from the foreign West Indies, 1,584 from foreign Europe, and the remainder from the United Kingdom, and the islands of Jersey and Guernsey; thus constituting the United States, in the regular course of the trade, the natural and cheapest source of supply. It also appears that in the year 1828, of the aggregate importation, then reduced to 351,832 bushels, 27 bushels only were introduced directly from the United States; but, from the foreign West Indies, 126,221; from the British colonies in North America, 45,495; from foreign Europe, 464; and from the United Kingdom, &c. 172,718 bushels.

In 1825, there were imported into the same islands 202,737 barrels of meal and flour; of which the United States supplied directly 161,563; the British colonies in North America, 4,232; foreign Europe, 400; foreign West Indies, 21,090, and the United Kingdom, &c. 15,447 barrels. In 1828, the aggregate importation of the same articles was 206,653 barrels; of which the United States sent directly 940 barrels, and the foreign West Indies, 142,092; the British colonies in North America, 36,766; foreign Europe, 1,135, and the United Kingdom, 25,331.

A similar result is more strikingly presented in the article

of rice; and it is also shown by the same account, that, of the amount of lumber introduced since the interruption of the direct trade, nearly one-half of the most valuable kinds, which previously went directly from the United States, passed through the foreign West Indies; of shingles considerably more than one-half; and of staves, a greater number were imported from the foreign West Indies in 1828, than were introduced directly from the United States in 1825.

It will not escape the attention of the Earl of Aberdeen that the foreign West Indies derive their means of exporting these articles principally, if not exclusively, from the United States; and that, while the importance to the planters of their direct trade with the latter is thus exemplified by these statements, it is also shown that the diversion of it into indirect and circuitous channels does not confer equally substantial advantages upon the British Northern colonies.

With this view of the subject, the undersigned takes leave to ask, why may not these supplies, which must thus necessarily be drawn from the United States, be furnished by means of a direct trade? It must be admitted that the evils of the indirect trade fall upon the planters. Among these may be considered the charges of double freight and insurance, the expenses of transshipment, and the commissions and duties in the neutral islands, estimated at fifty per centum on the first cost of lumber, and from fifteen to twenty per centum on provisions. So far as this estimate relates to lumber, it is fully warranted by the official account of the comparative prices of that article in Jamaica in the years 1825 and 1828, already submitted to the Earl of Aberdeen; and, as it respects provisions, the duty of five shillings per barrel on flour, and in proportion on other articles, as completely sustains it. But to these evils, great as they are, must be added the total loss of the market offered by the United States under a direct trade, the extent and advantages of which have already been shown, and would have continued for an indefinite length of time, if not interrupted by these restrictions.

It is true the cultivation of sugar had been commenced, and is extending in the United States, but under difficulties and impediments arising from the nature of the climate, and the frequent injury of the crops by the variability of the seasons. It has to contend, also, with the superiority, if not the indispensable necessity of foreign sugar for the purpose of the refiner. The demand of the latter is steadfast and increasing, being commensurate, not merely with the consumption of refined sugar in the United States, but the growing trade in it with all parts of the world. The exportation of refined sugar has also been further encouraged by a recent augmentation of the drawback, placing it on an equal footing with domestic sugar in respect to foreign markets. Under these circumstances, while the direct trade remained open, there would, as has been said, have continued a great and augmenting demand for the West India sugars for an indefinite length of time. The present restrictions, however, menace the planter with its total loss, if, in fact, they have not already ensured it. In proportion as they augment the embarrassments and expense of the trade with the British West India islands, they compel the United States to grow their own sugar, and act as bounties to encourage and improve its cultivation; or they induce them to look for their indispensable supplies to other islands more liberal in their commercial regulations.

In the mean time, the planters, while they lose a market, ample, constant, profitable, and contiguous, find no indemnification in that of the Northern possessions, whose consumption is comparatively limited, nor in that of the mother country; for there, in addition to the low prices already adverted to, they must encounter the sugar of the Mauritius, which, being now placed on an equality with their own, has increased the amount of its importation, in the course of five years, from four thousand six hundred

to a little less, as it is believed, than thirty thousand tons. From this state of things, therefore, serious injury arises to the trade, both of the United States and of the British West India islands. So far as that injury presses upon the latter, it is confidently submitted whether plenary relief can be found, as has been supposed, in the reduction of duties upon their produce, unless it be in a manner to give them a monopoly in the home market equal to that of which they have been deprived in the United States; or even then, unless the reduction be in proportion, not merely to the loss of the market, but to the increased charges incident to the indirect trade for their necessary supplies.

The supply of sugar is already greater than the demand of the home market; and the amount of reduction of duty could not be a clear gain to the planter, because it would be also attended with a partial fall of the price, and his gain could be in proportion to the latter only. This mode of relief, without a correspondent reduction of the bounty allowed to the refiner, would be prejudicial to the revenue, but, with such reduction, much more injurious to the refiner; and if, as it may be well supposed, one-half, at least, of the sugars imported from the West Indies are manufactured for exportation, it is not likely that such mode of relief would, in any event, be beneficial to the planter. It is suggested with great respect and deference, that the more obvious and natural remedy for an evil, which all must admit, would be to remove the cause. This would be done by cheapening the supplies, and extending the market for the productions of the islands, and by authorizing a direct trade with the United States to a degree commensurate with the interests and necessities of the islands, and on such terms as are now allowed, for similar purposes, to all the rest of the world.

The partial application of a like remedy produced a salutary effect from 1825 to 1826, and, therefore, it may well be presumed that a more thorough experiment on both sides, at present, would be still more beneficial. At that time, undoubtedly, the British Northern possessions neither complained nor had cause of complaint; still less can any such cause have arisen since, as their monopoly of the direct trade, instead of relieving, has only aggravated the sufferings of the planters!

It has been stated to the undersigned, however, as the opinion of Great Britain, that, while devising measures for the relief of the West Indies, it is, at the same time, indispensably necessary to consider the claims of the Northern possessions to be protected in the enjoyment of certain accidental advantages. Though the undersigned by no means admits the justice of these claims, he would observe, that, if they are to receive protection, it ought, at least, to be effected in some way not inconsistent with the meditated relief of the planters. This might be done by granting greater facilities for the introduction of the produce of the Northern possessions into the mother country—a measure which would not merely benefit them, but would ensure important advantages to Great Britain, by increasing her revenue, and augmenting and perpetuating the consumption of her manufactures in those possessions.

But the proposition does not go to exclude the productions of the Northern colonies, or even to expose them without protection to a competition with those of the United States. It supposes, on the contrary, that, as far as the former are capable of producing the articles in demand, a fair preference is already secured to them in the West India market by the scale of duties prescribed by the act of 1825, and fully commensurate, consistently with the interests of the planters, with that object. That scale could only prove insufficient if the capacity to produce did not exist, or should depend for its existence upon an exclusive monopoly ruinous to all other interests.

It is not for the undersigned, therefore, to object to that scale of duties as regulated by the act of 1825, though it must be allowed to give the productions of the Northern

possessions of Great Britain an equal, or even a better chance in the West India market; but he requires that the United States, as far as they are capable of supplying its wants, may be permitted, in common with the rest of the world, to contribute supplies by a direct trade, and that they may be the carriers of such of their own productions as are indispensable or highly necessary to the planters. That the Northern possessions have an interest in the present state of things, the undersigned does not mean to deny, nor particularly to state. It is sufficient for him to repeat what has been already remarked, that the interests which have grown up in that quarter are adventitious in their character, and subordinate to all the great considerations connected with this subject. They may be of some importance in themselves, and yet there may be views of higher moment and grander scope, to some of which allusion has already been made, before which, in every sense, they ought to give way.

It will be difficult to maintain the propriety of the claim by the Northern possessions, that they should be secured in the enjoyment of a direct trade with all parts of the world, and that it should be denied to other possessions of Great Britain, to whom it is more necessary.

Of the capacity of the British West Indies to supply with their productions all the demands of the Northern colonies, there can be no doubt; yet those colonies, by a direct trade, may introduce similar productions from foreign countries. Why, then, may not the British islands be permitted by the same medium to introduce those articles which the Northern possessions cannot supply, and for which they are dependent upon others? If the Canadian may import from foreign countries, by a direct trade, merchandise of which he is not in need for his own subsistence, and which he may procure from other colonies of Great Britain, why may not the West Indian receive from the United States in the same direct manner that which is indispensably necessary to him, and which none of his Majesty's colonies can supply?

The undersigned does not pretend to state, since he is unable to obtain the information requisite to enable him to state with accuracy, the precise proportion which the productive capacity of the Northern possessions bears to the wants of the West India islands. It is the general opinion that the productions of those possessions, especially corn and other bread stuffs, but little exceed the quantity required for their own consumption; and that the amount of those articles, and even of lumber exported by them to the mother country, the West Indies, and to other parts, is derived principally from the United States, and from some ports of Europe. This opinion would seem to be confirmed by the state of the trade between those possessions and the United States, and by the encouragement given heretofore, and at present, by low duties, to the introduction into their ports from the latter of most, if not all, of the foregoing articles.

The exports from the United States to the British American colonies consist principally of flour, meal, Indian corn, wheat, ship bread, rice, pot and pearl ashes, butter, and lumber; amounting annually, according to the circumstances of the year, to from two and one-half and three and one-half millions of dollars, and little inferior in value to the aggregate exports from the United States to the British West India islands in an open trade.

The Earl of Aberdeen has already inspected the official tables of the exports of domestic articles from the United States during the year 1827; and though, for purposes of comparison, similar tables for 1828 would be more precise, it is believed they would not diminish, if they did not add to the weight of those of 1827. From this statement, and a recurrence to the account already explained, to say nothing of the amount of produce passing down the St. Lawrence, of which, as has been observed, little, if any, account is taken in the United States, the Earl of Aber-



deen will perceive that, after a full experiment of the advantages afforded to the British Northern colonies by the present course of trade, they are in fact dependent upon the United States for considerably more than double the amount of their exports to the British West Indies.

By these statements, it appears that, in 1828, the British Northern colonies exported to the British West India islands 45,495 bushels of corn and grain, and, as far as the trade in 1827 may be considered indicative of that of 1828, they received from the United States 88,456 bushels of the same articles; that, of flour and meal, they received from the United States 136,770 barrels, and exported to the West Indies only 36,766; and that a like proportion is observable in the articles of ship bread, and biscuit, and rice. Of lumber, the official tables of the United States are not supposed to afford any satisfactory account; and, in respect to pot and pearl ashes, the British statement is silent; though it will probably be conceded that the supplies of the latter articles are principally from the United States.

On looking to the large amount of importations from the United States by the British Northern colonies, the comparatively small exportation from the latter to the British West Indies cannot escape observation. That these islands require much more than the quantity furnished them by the North, is shown, not only by the table of their direct trade with the United States, but by the amount furnished at present, under all the pressure of the discriminating duties, from the foreign West Indies. It is a matter, in fact, that does not admit of a doubt. That the Northern colonies do not, under these circumstances, send more of the produce received by them from the United States, must be either because a great part of it is absorbed by the demands for the home consumption, or that it is necessary for their export trade with other parts of the world. The first cause satisfactorily evinces the incapacity of those possessions, even under their present advantages, to augment, in any considerable degree, their own productions; the last does not merely evince this, but manifests more strikingly the inexpediency of their claim to a monopoly of the trade with the West Indies, to the exclusion of the United States, upon whose productions they are themselves dependent, not only for their trade with the West Indies, but also for that with the mother country, and with the foreign European ports.

If these facts should be considered as requiring further confirmation, it may be found in the testimony of several of the most intelligent inhabitants of the Northern colonies, taken, in 1826, before the select committee on emigration, by which it appears that, at that period, and previously, Lower Canada did not supply any flour suited to the West India market; and that the whole of the exports of the Upper Province, not exceeding 40,000 barrels, were disposed of in the ports of Newfoundland, New Brunswick, and Halifax, and were insufficient for their wants; that Quebec depended, in a great degree, for provisions, upon the supplies furnished by the United States; and that Canada, at the time, found the utmost difficulty in subsisting her own population. It was further stated in that testimony, that "there was not sufficient corn grown in Upper Canada to induce any foreign market to deal with them; and that it would be extremely desirable, for some years to come, to introduce American flour into the Canadas, in order to make up their deficit for the supply of the West Indies;" that, in fact, their own supply to the West Indian merchant was very inconsiderable, and "that they formed a very secondary consideration in his estimation." One of the persons examined on that occasion, a legislative councillor of Lower Canada, gave it as his opinion, and as one which he thought would be taken for granted, that the provinces of the two Canadas would not be able, from their own produce, to supply a single barrel of flour to the West Indian market for the next twenty years. With-

out presuming that any of these opinions are in all respects accurate, but making every allowance for the character of such answers, which, if in any degree erroneous, are likely to err in favor of the Canadas, it may be safely and confidently assumed that the Northern possessions do not now, and cannot for a great number of years, however they may be favored and encouraged, produce the requisite supplies for the West Indies. They must rely upon other sources, and principally upon the United States, not merely to furnish the deficiency, but as consumers of the West India produce. To this extent, and for these purposes, the proposition of the undersigned asks for a direct intercourse. The undersigned would here observe, moreover, that the Northern colonies offer as little advantage in their demand for the produce of the British West India islands, as in their capacity to furnish supplies. He is aware of the erroneous supposition that the United States, in their direct trade with the British West Indies heretofore, did not take so much of their produce as of specie, to be invested, as it was imagined, in the produce of other islands. So far, however, as it may be thought to argue an unfavorable course of trade between the United States and those islands, he may confidently rely for its refutation, not only upon its obvious improbability, but upon the past, and even the present course of the trade.

It is obvious that the restrictions by which the trade of the United States with the British West Indies has been so frequently embarrassed, offered peculiar inducements to the importation of specie; but on this head the undersigned may venture to affirm that the amount of specie has not, at any period of the direct trade, exceeded much more than one-fourth of the importation into the United States through those islands.

Without stopping to detect the error of supposing any thing unfavorable to the general result of trade from the exchange of specie for produce, which Lord Aberdeen is aware is a natural occurrence, incident to commerce in all parts of the world, it will be sufficient to observe that, as the advantages of the direct trade to the West India planter were never doubted, it may fairly be inferred that the exchanges were mutually made in the most profitable medium. That specie was occasionally received for part of the supplies furnished by the United States, need not be denied; which would prove, only, that, from the general result of their traffic with other parts, the West India planters were enabled to deal more profitably in specie for the produce of the United States—thus affording additional illustration of the mutual advantage of their intercourse. But the undersigned takes leave wholly to doubt that specie was so taken for the purpose of being invested in similar articles in the foreign islands.

Unless an occasional instance of the kind has been produced by the pressure of those restrictions which it is now proposed to abolish, the occurrence of it would argue to the merchant the unaccountable folly of submitting to a prolonged voyage, but reduced freight, and to the other disadvantages of a circuitous trade, in the search after commodities which lay ready at hand, and which he might convey immediately to his market by a direct voyage, and at a better freight.

It will doubtless, however, occur to Lord Aberdeen, that, whatever may have been the course or nature of the exchanges in a direct trade, they were not merely adapted to the necessities of the parties, but are not likely to be improved under the embarrassments of an indirect trade; or that more produce and less specie would pass off through the circuitous than the direct channel.

Though the Northern colonies may become the carriers, they do not thereby become the consumers, except to a limited extent, of the West India produce. Their capacity to consume in produce the value of all supplies carried by them to the West Indies, or even of that part going from the United States, will not be asserted: and,

therefore, it is not perceived how such produce can be received by them, unless from a reliance on the consumption of it in the United States, or other foreign parts. Indeed, in some of the official and other statements furnished by those provinces to the British Government, the advantages of a free transit of American flour through the Northern possessions are argued from the expectation that those districts in the United States which furnish the flour will receive from the Canadians foreign produce in barter! Not to advert to the complete annihilation of such expectation by an interdict of the supply through such a channel, it must be obvious that the United States will not take more produce or less specie under the embarrassments of an indirect intercourse. It is, on the contrary, reasonable to infer that, in such case, for the more bulky articles of West India produce, they would be led to rely, in a still greater degree, upon foreign islands, with augmented facilities; and that they would require specie in return for that portion of their supplies passing through the Northern colonies; thereby increasing rather than diminishing the drain of that article, so far as it may be supposed to be affected by those regulations.

The undersigned would beg leave further to observe, that a refusal of the proposition which he has had the honor to make can have no other obvious pretence than, by means of a monopoly, to give a forced growth to the productions of the Northern possessions, and, in the mean time, to compel the carrying of the produce of the United States and that of the British West Indies through their ports!

The very necessity of a monopoly to effect such a purpose, however, clearly points out the difficulties of production, and the embarrassments of such a course of trade, and shows the losses and distresses to which the planter must be subjected for an indefinite length of time.

It is by no means certain, however, that these objects are consistent with each other, and that the abundant supply of the productions of the United States through the Northern ports would not as effectually discourage the productions of those possessions as the direct trade; and in this way perpetuate the monopoly. Such a result is shown to be more than probable by the foregoing observations, and by the official statements to which they apply. But it is perfectly certain that, if this monopoly should have the intended effect of fostering the growth in Canada of the articles required for the West India market, it would also have the effect of impelling the United States to the cultivation within themselves of the articles for which they have been accustomed to depend upon the West Indies, and consequently of diminishing their demand for those articles. The ability of the North to supply the planter, therefore, would be attended with the loss to the latter of the means of purchasing the supply.

The reasonable duty proposed by the act of 1825, even without the aid of the additional privileges to which the undersigned has heretofore presumed to allude, by gradually and reciprocally developing the resources and the means of consumption of the Northern possessions, by providing a necessary revenue for the planters, and in the interim affording them an advantageous market, would be much more effectual in attaining all rational and desirable ends.

From an impartial view of all the considerations involved in the subject, may not such a course be deemed worthy at least of an experiment? Whether we regard the general deductions of argument, or the series of indisputable facts arising out of the course of trade before and since the order in council of 1826, it can scarcely be denied that the present state of things has, thus far, produced greater injury to the British West Indies than benefit to the British Northern possessions; and that the regulations of the act of 1825 would be extremely beneficial to the planters, if indeed not absolutely remedial of

their great distress, will not be questioned. From a recurrence to those regulations, therefore, much positive good is certain to arise; whereas the injury apprehended to others exists only in conjecture, can be ascertained only by experience, and may always be remedied by the protecting measures of Great Britain. It would appear, therefore, to the undersigned, not merely courteous to the United States, but just to the various possessions of Great Britain, to recur to the expedient of trying, under the favorable legislation of both countries, the real utility of the adjustment of 1825.

If the encouragement of the Northern productions be not sufficient in its results to justify the permanent exclusion of those of the United States from the British West India islands, it is equally unreasonable to insist that the latter and the produce of the islands shall be carried circuitously through the Northern ports, at a loss to the producer. The present demand, in addition to the indemnities actually enjoyed by the Northern ports, strips the West India planter of every advantage intended for him by the act of 1825, taking from him not merely the general benefits of a direct trade, but at the same time depriving him of the revenue provided for the support of the local Government. That the productions sent through the Canadas are not cheaper in the West Indies than those going through other ports, is shown by the fact, already made apparent, that a very important part of their supply is carried in the latter way, and especially through the Danish islands; but, as no duty is collected on that coming from the British possessions, the planter, on his paying the same price as for that charged with a duty, must, in addition, make up, by some other means, the loss to his revenue.

It is at such sacrifices of public considerations, and of important interests of Great Britain herself, that the present claim is made, of forcing the trade of the United States with the British West India islands through the British Northern possessions.

The undersigned might here ask the question, whether advantages like these now claimed, uncertain and contingent as they must necessarily be, deserved to be cherished at the risk which must eventually attend them? Are they of sufficient magnitude to justify the encouragement of a spirit of jealousy between two neighboring nations, whose prosperity, it is admitted, would be best promoted by mutual good will, or the sowing in the population of these Northern possessions the seeds of commercial hostility, which may produce roots of bitterness difficult to be eradicated?

The undersigned, however, hopes to be excused for asking Lord Aberdeen to consider whether this claim be not as difficult of attainment in fact, as it is of justification in reason.

That the United States may be prevented from enjoying a direct trade with the British West India islands, is not to be questioned; but it does not follow that they can be compelled to carry on the indirect trade through the British Northern possessions in preference to the other ports, and in opposition to the interest and inclinations of the American people. To ensure a continuance of such a constrained state of things, would require a far greater degree of favor than Great Britain gives to those possessions at present, or could give at any time, without effecting the ruin of her West India planters.

The present course of trade through those colonies, in fact, owes its existence, in a great measure, to the toleration and forbearance of the United States. They have submitted to it for the moment, in the expectation that the regulations of the order of 1826 were merely temporary, and would yield, in due time, to a liberal regard to the general interests of commerce. But when Great Britain shall avow the intention permanently to exclude the United States from the direct trade with her West India

islands, and to compel the interchange of their products to pass through her Northern possessions, for the purpose of creating or sustaining rival interests in that quarter, it will then be for the United States to decide whether their indirect trade may not be more profitably conducted through other channels.

So entirely dependent are the Northern possessions upon the will of the United States for the advantages which they now enjoy, that a simple repeal of the restrictions alluded to in the proposition which the undersigned had the honor to submit, if the United States could be supposed so entirely unmindful of their navigation interests and enterprise, as to make it, without any act on the part of Great Britain, would effectually destroy their monopoly. And, moreover, if it should be deemed necessary or proper to aim measures at these provinces alone, the permission of a direct trade from the ports of the United States to the British islands, in British vessels, other than those owned in the Northern ports, would not only break up the existing trade in that direction, but would forever blight even the imaginary prospects of future production.

The advantages to the United States, however, of employing their own navigation in a part, at least, of the trade—of enlarging and conciliating their interests in the colonies of France, Spain, Sweden, and Denmark, and, by reciprocal accommodations, of gradually increasing the market in those parts, both for demand and supply, would powerfully, if not irresistibly, tempt their trade into those channels. Indeed, the official returns heretofore explained, sufficiently show that it has, in fact, been already invited thither, in a considerable degree, by advantages which it would not be difficult to augment, until the commodities could be introduced as cheap as those of Great Britain, unless the latter should be protected by a higher scale of duties than was contemplated by the act of 1823, and one beyond the ability of the planters to endure.

The Earl of Aberdeen will do the undersigned the justice to believe that, in discussing the contingent policy of the two countries in the arrangement of their commercial enterprise, he holds forth no apprehended event with a view to intimidate, or through a desire that it may take place. He will also perceive that the measures last alluded to would not necessarily imply, on the part of the United States, either resentment or retaliation; but would be resorted to as the system of commercial regulation calculated, under the circumstances of the case, to give the best direction to an important branch of their enterprise.

To such extent they would be altogether practicable, and might be supposed indispensably necessary. They might, indeed, from the natural tendency of such measures, and the peculiar influence of events, and in the total loss of the trade between the United States and the British Northern possessions.

In such a view of the subject, though the undersigned will not here undertake to pronounce upon the value of the trade in question, he would suggest that it may be worthy the consideration of those who claim the advantages of monopoly rather than of fair competition, whether the loss of it, with the chance of contesting with the foreign islands for the trade with the West Indies, be preferable to a reasonable enjoyment of both.

That the United States possess the means of effectually controlling their trade through and with the British Northern colonies, the undersigned is fully confident.

He is aware, however, that a contrary idea has been entertained by some, who may have regarded the subject in a narrow or interested point of view.

In adverting to this topic, the undersigned will not permit himself to suppose that the possibility of evading the revenue laws of the United States, and of producing a course of contraband trade, in violation of their legitimate regulations, can for a moment enter into the calculations of this Government, or receive the remotest degree of en-

couragement or countenance from its measures and policy.

If no other motive opposed the adoption of such an alternative, Great Britain would find a sufficient one in the certainty that, however, for the moment, it might minister to the jealousy, or appear to favor the interests, of her subjects in the colonies, it would eventually produce the most baneful effects upon their morals and their habits. Thus corrupted, the skill and hardihood acquired in evading and transgressing the laws of a neighboring country, would afterwards be practised against those of their own Government.

But, in addition to the general disfavor with which any expectation of benefit from a contraband trade should be met, Lord Aberdeen may be assured that it would not be difficult for the United States to prevent such a trade altogether. A more efficient cordon of police, and a greater degree of vigilance, might be requisite than in ordinary times; but the fidelity of the American custom-house officers has been thoroughly proved, and their exertions, even upon this frontier, have in general been adequate to all substantial purposes. Such was the case even when they were called upon to enforce the embargo and non-intercourse laws, when they received but little sympathy or encouragement from the moral sense of the community. The fact is, however, too clear to require argument, that the amount of trade to be carried on by smuggling, however successful, would be inconsiderable in comparison with the extent and profits of a legal and regular intercourse, and, therefore, is entitled to but little weight, even when regarded with a view to pecuniary results. Lord Aberdeen will not require to be reminded, that, to prevent illicit trade, it is chiefly necessary to remove the temptation of high prices, or to create a risk greater than the reward to be gained by successful fraud. Nothing could be more easy than this, in respect to the mode of intercourse now under consideration.

The interposition of the custom-house officer would scarcely be requisite to prevent the introduction of West India produce into the United States through the Northern colonies. Arrangements could readily be made with the Powers to which the foreign islands belong, to furnish the requisite supplies of West India produce from those islands, on cheap terms, and in steady and abundant quantities. These arrangements would of themselves forbid competition. But whilst American flour can be carried to the British West Indies as cheap from the United States through the foreign islands as through the Northern possessions, though subject to the discriminating duty, in favor of the latter, of five shillings per barrel, it will not be supposed that the bulky articles of sugar, rum, and molasses, without such aid, can be tempted through the Northern possessions by the risk of detection, and the penalties of the law.

The undersigned does not believe that the temptations and facilities for the introduction into the Northern colonies of flour and other articles from the United States, are materially greater.

So far as the trade with the British West Indies can operate as an inducement, it has been seen already that American produce is carried thither as cheap through the foreign islands as the Northern ports. The supply of American flour in the Northern colonies is believed to be principally furnished by the Genesee country, and the country bordering upon Lake Erie; and it stands admitted in the evidence upon the archives of the House of Commons, that, for flour, the market at New York is generally better than the market at Montreal and Quebec. Indeed, so important is the operation of these facts, that the most intelligent merchants suppose that so much of the American trade with the British West Indies, as passes through the Northern colonies instead of the foreign islands, is chiefly diverted thither by the greater facilities of pro-

curing in those ports an assorted cargo suitable to the West India market.

In the testimony afforded by the inhabitants of Lower Canada to the committee of the House of Commons in 1826, it was asserted, and remained uncontradicted, that, "against the superintendence of the British custom-house officers, it would be impossible to smuggle any part of a cargo, or even a barrel of flour, into the province of Lower Canada." On this ground they were enabled to encourage the introduction of American flour, in proportion to the amount of their exports to the West Indies and other places, without danger of its being brought into the home consumption; and the encouragement then given shows the importance attached by his Majesty's Government to that evidence. On this supposition, Lord Aberdeen will readily acknowledge the facility with which the United States, through means of a custom-house police, strengthened and extended according to their means, may accomplish the same ends; more especially as the readier interdiction of the return trade from Canada into the United States, by diminishing the means of payment, would also diminish the motives to incur the risk and penalties incident to a prohibited trade. The undersigned is apprehensive that he has already dwelt longer upon these considerations than is necessary, after so much personal explanation as he has heretofore had the honor of yielding, and will content himself, as to any further arguments that might be offered, with referring to the various other suggestions which have been made by him in the course of this negotiation. He cannot, however, entirely dismiss the subject, without repeating, for the last time, his deep solicitude for the result, and without most earnestly recalling the attention of his Majesty's ministers to the state in which the relations between the two countries would be left should this point be unfavorably decided. In such case, the Government of the United States, while disappointed in its cherished hopes of an arrangement by mutual and reasonable concessions, would find nothing conciliating in the retrospect of a long course of fruitless negotiation, and nothing cheering in the future prospect, darkened, as it would be, by the possibility of a recurrence, by the two nations, to that system of countervailing measures that has already proved so detrimental to their harmony and welfare.

The undersigned takes this occasion to renew to Lord Aberdeen the assurance of his highest respect and consideration.

LOUIS McLANE.

To the Rt. Hon. the Earl of ABERDEEN, &c.

*Extract of a letter from Mr. McLane to Mr. Van Buren,*  
dated

LONDON, April 6, 1830.

Sir: I have had a conference with Lord Aberdeen to-day, which I sought for the purpose of urging the definitive answer to my proposition relative to the colonial trade. In my previous conference, he gave me some reason to expect that it would be given in time for this packet, but I regret to say that this expectation has not been realized. He assures me that the delay has been wholly unavoidable, and that it proceeds from no indisposition to obviate the difficulties, if that be practicable, which lie in the way of a satisfactory adjustment of the question.

I have not failed to represent to him the very serious injury and embarrassment which must result from delaying the answer until the Congress shall rise, and of what I fear may be the insuperable difficulties of any prospective legislation with a view to a future arrangement. None of these efforts have yet proved sufficient to bring the answer.

Under these circumstances, unless Congress shall continue in session until the arrival of the packet of the 16th instant, which I hope they will do, it will not be possible

to get the decision in time to be submitted to that body. Deeply as I lament this state of things, I need scarcely say that it has not been possible for me, by any exertion, to avoid it.

In this stage of the business it may be proper for me to remark, that the negotiation must end in one of three modes; in a positive refusal to change the present regulations, or a revocation of the order in council of 1826, upon the terms of my proposition, or in a revocation of that order, with some increase of the duties imposed by the act of Parliament of 1825, in favor of the productions of the Northern possessions.

Looking as well to the progress of the negotiation as to the obstinate and persevering opposition, by the interests in those Northern possessions, to any change whatever, and to the influence which it is obvious they exercise here, I confess that the last mode appears to me the most probable. I do not believe that any legislation by Congress, with a view to that state of things, and vesting in the President a discretion to regulate the trade or rescind our laws in either of these contingencies, would in any manner prove prejudicial.

*Extracts of a letter from Mr. Van Buren to Mr. McLane,*  
dated

DEPARTMENT OF STATE, Washington, June 18, 1830.

SIR: Herewith you will receive a copy of the confidential message which was sent by the President to the two Houses of Congress, during its late session, in pursuance of your suggestion, that the measure recommended by it might be made useful in your negotiations with the British Government, together with a copy of the law which was the result of that message.

It is confidently hoped that the law referred to, with the motives in which it originated, and which secured it a rapid passage through the two Houses of Congress, without material opposition from any quarter whatever, added to the frank and liberal offer and explanations already made to the British Government on the part of the Executive Department of this, will, of themselves, be regarded by that Government as affording sufficient ground for its changing the position which it occupied in regard to the subject of its colonial trade, in all its bearings, so far as it affected the United States, at the period of the accession to power of the present ministry, and for the adoption of a course of policy which may lead to the speedy and mutually advantageous revival of trade between the United States and the West India possessions of Great Britain, if, indeed, that important concern should not have been already satisfactorily adjusted. It ought to be regarded, likewise, as a direct conciliatory step on the part of this Government, of the highest character, as emanating from its executive and legislative authorities combined, and as a solemn public movement on our part towards a friendly accommodation with the British Government, upon terms of a fair and just reciprocity.

You will have been made acquainted, in the instructions which have been heretofore given you, with the opinion of the President as to the course which would most probably be pursued by the United States if Great Britain should think proper to insist, as a preliminary measure, upon the unconditional repeal of our laws, or should be so selfish as to desire to engross for its navigation the whole of the carrying trade between this country and its West India colonial possessions. But that your negotiation may continue to be characterized by that spirit of frankness which it has hitherto been a leading object on our part to infuse into it, I am directed explicitly to state, upon this occasion, that the President will consider it his duty, in case that negotiation should eventuate unfavorably upon this point, to recommend to Congress an extension

of the interdict now existing as to the West India possessions of Great Britain, to those which she holds in the Northern parts of this continent, and the adoption of proper measures for enforcing its rigid observance, as a course which would, in his judgment, best comport, in such an event, with the interests of the United States, and correspond with the respect which is due to the character and past conduct of this Government. It is not for him, however, to anticipate with certainty the effect of such suggestions upon the national councils of the Union, though it is not to be supposed that, in such a case, any thing will be omitted on their part to vindicate the honor and maintain the interests of this Government.

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*Mr. McLane to the Earl of Aberdeen.*

9, CHANDOS STREET, PORTLAND PLACE,  
July 12, 1830.

*The Rt. Hon. the Earl of Aberdeen, &c.*

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has had the honor already, in a personal conference, to explain to the Earl of Aberdeen, his Majesty's principal Secretary of State for Foreign Affairs, certain measures adopted by the Congress of the United States, during their late session, which have an immediate and important bearing on the relations of the two countries, and upon the proposition heretofore submitted by the undersigned respecting the West India trade. Having received from the Earl of Aberdeen an intimation of the propriety of communicating those measures in a more formal manner, the undersigned has the honor herewith to transmit such information on the subject as he is now in possession of.

The first of the measures alluded to is an act of the Congress of the United States, authorizing the President, in the recess of Congress, to annul all the restrictive and discriminating measures of the United States, and to open the ports to British vessels trading with the British West Indies, in the manner particularly pointed out in the act; a copy of which, for the better explanation of the case, the undersigned begs leave to subjoin.

The undersigned has the honor also to inform Lord Aberdeen, that, during the late session of the Congress of the United States, several other laws were passed, by which, in lieu of the duties imposed upon certain articles of the produce of the West India islands, and of the possessions of Great Britain, by previous regulations, the following duties only are to be collected, that is to say: Upon molasses, a duty of five cents, instead of ten cents, per gallon, allowing at the same time a drawback of the duty upon all rum which may be manufactured from that article, and exported from the United States;

On salt, a duty of ten, instead of twenty, cents per bushel;

On cocoa, a duty of one cent per pound on all imported after the 31st of December, 1830, or remaining at that time in the custom-house stores under the bond of the importer;

And on coffee, a duty of two, instead of five, cents per pound, from and after the 31st of December, 1830; and of one cent per pound from and after the 31st day of December, 1831; and the same duties to be taken on coffee remaining at the respective times under bond in the custom-house stores.

The undersigned will not permit himself to doubt, that, in the first of these acts, emanating from the frank and friendly spirit which the President has uniformly professed, and passed with an avowed reference to the pending negotiation, the Earl of Aberdeen will see new and irresistible motives for concurring in the promotion of the end to which this measure directly leads.

Such a measure could not have been recommended by the President without incurring a deep responsibility to-

wards his own country, and feeling a confident reliance upon the justice and magnanimity of this.

It is a voluntary and leading step in the conciliating policy of the two nations, taken in disdain of the restraints of form, and which, if met in a corresponding spirit, cannot fail to produce that friendly intercourse and real harmony so ardently desired by those who consult the true interests and glory of both countries. It concedes in its terms all the power in the regulation of the colonial trade, and authorizes the President to confer on British vessels all those privileges, as well in the circuitous as the direct voyage, which great Britain has at any time demanded or desired. It has done this in the only manner in which it was possible for Congress, at the present moment, and under existing circumstances, to act, without a total abandonment of even those advantages conceded by the present regulations of Great Britain, and without raising up new interests to oppose or obstruct the favorable disposition expressed by this Government. Nor will the undersigned conceal his hope and belief that this act will stamp the negotiation with a new and more favorable character; and that the United States having thus taken the first step, and particularly defined the terms of their legislation, the mode of adjustment may be disencumbered of even those objections with which it was supposed to be embarrassed when submitted to Lord Dudley, and by the answer which on that occasion was given to Mr. Gallatin. The objections suggested at that period on the part of Great Britain had no special or exclusive reference to the measure in question, but to the giving of any prospective pledge by which she might commit herself to the adoption of any specific line of conduct contingent on events which could not be foreseen, and to the entering into any informal agreement as to mutual acts of legislation, while it was impossible to anticipate the details with which those acts might be accompanied, or the position and circumstances in which the two countries, and the commercial commonwealth generally, might be placed at the time when the laws enacted should come into effect. If these objections could at any time have been essential to the subject, which the undersigned by no means admits, they certainly are not so at present.

The act of Congress has been passed without any pledge, prospective or otherwise; it, therefore, relieves the adjustment of this subject from that part of the difficulty. The details of the colonial legislation on the part of the United States are precisely defined and fully explained by the law. Frankly announcing all this, it leaves to Great Britain herself the selection of the mode and time in which, according to her conception of her own interests, she may restore the direct trade between the United States and the West Indies. She is enabled deliberately to do this with a full knowledge of the before mentioned details, and of the precise position and circumstances, as well of the two nations as of the commercial commonwealth in general, at the time when the measures are to come into effect. This she may do without any risk as to the future, and with the certainty that, while doing an act of justice to a friendly Power, and relieving it from an invidious exclusion from advantages allowed to all other nations, she is contributing materially to the prosperity of her possessions in the West Indies.

The undersigned will not dismiss this subject without expressing the hope and persuasion that, in the other measures of Congress alluded to, the Earl of Aberdeen will find not merely all the considerations heretofore urged for giving new facilities to the trade between the United States and the British West Indies materially strengthened, if not absolutely confirmed, but that a further and more favorable alteration is thereby made in the object and character of the negotiation.

These measures manifest at least a laudable desire to loose the shackles of trade and commerce, which, if Eng-



land is so disposed, she cannot better encourage than by a relaxation of her own restraints upon the particular branch of trade under discussion.

The Earl of Aberdeen has been already informed that the consumption of foreign molasses in the United States is not less than thirteen millions of gallons, even under the discouragement of the high rate of duty and a denial of the drawback, which nearly proved fatal to the chief source of consumption—the distilleries of New England. It is obvious, however, that the reduction of the duty to its present low rate, and the allowance of the drawback, must swell the demand for this article even beyond the ordinary amount, which, in the regular course of a direct trade, would seek its principal supply in the British West Indies.

Of coffee, not less thirty-seven millions of pounds were annually imported into the United States; and of those in a regular trade, not less than eight millions from the British West Indies.

Of four hundred thousand pounds of cocoa annually imported into the United States, little less than one-fourth was brought from the British West Indies.

The Earl of Aberdeen will readily perceive that the reduction of duty on these articles, and especially on coffee, to a rate which will soon be little more than nominal, cannot fail to at least double the importation.

These remarks apply with even additional force to the article of salt, the consumption of which is more dependent on the rate of duty than that of any other necessary of life.

The enormous quantity of this article requisite to supply the wants of twelve millions of people is too obvious to need any conjectural assertion; but it is worthy of observation that, notwithstanding the extent of the home supply encouraged by the high duty of twenty cents per bushel, the annual importation of that article from abroad seldom amounted to less than five millions of bushels. Of this amount more than three millions came from Great Britain and her possessions, her West India islands furnishing at least one million.

To what extent this amount may be enlarged by the increased consumption arising from the low rate of duty and the advantages of an easy trade, the Earl of Aberdeen may readily conjecture.

It should be remarked, also, that, while the consumption of this article is thus augmented, the diminution of the duty must proportionably diminish the price of salted provisions. So far as these, therefore, form part of the supplies to the West Indies, the subsistence of the islands will be cheapened, while the demand for their produce is increased.

It should not escape the attention of the Earl of Aberdeen that the provisions of these acts of the Congress, so far as they relate to cocoa, coffee, and salt, confer encouragement on the trade of the West Indies with the United States, which did not exist, and could not have been contemplated at the period of passing the act of Parliament of 1825. They, therefore, superadd new and important motives for restoring the trade then offered, and for restoring it upon terms not less favorable.

While the participation of the British islands is invited in the advantages to be derived from this enlarged and increasing demand of the United States for the produce of the West Indies, the undersigned takes leave to suggest the expediency of securing that participation before the trade may be exclusively diverted into other channels by the superior advantages of a direct intercourse with other islands.

In closing this communication to the Earl of Aberdeen, the undersigned will take the occasion to repeat his deep interest in the subject, and a renewed hope of an early and favorable issue. The Earl of Aberdeen will not fail to appreciate the spirit and motive by which the President was

actuated in recommending, and the Congress in passing, the act to which allusion was first made. The effects of delay upon the commercial enterprise of the United States, and the disappointment of interests desirous of a different measure of legislation, though they offered great embarrassments, were not the greatest difficulties attendant upon that act. To give to Great Britain the fullest time to consult her own interest and convenience; to make a further and a signal effort to place the commercial relations of the two countries upon a footing of sure and lasting harmony; and to guard, in a manner consistently with duty, against delay during the recess of Congress, could only be done by a measure calculated also to awaken at once the spirit of commercial speculation, and to create new expectations of favorable dispositions on the part of this Government.

If, as the undersigned will continue to hope, the British Government should find it their interest to realize these expectations, their measures will derive additional grace from the frankness and promptitude with which they may be adopted; and if, unfortunately, these hopes are destined to experience a disappointment, it is not less the duty of his Majesty's Government to quiet the public expectations thus excited, and to mitigate, as far as may be in its power, the injurious effects thereof, by giving an early reply to the application which, in behalf of his Government, the undersigned has had the honor to submit.

The undersigned avails himself of this occasion to renew to Lord Aberdeen the assurances of his highest consideration.

LOUIS McLANE.

*Mr. McLane to Mr. Van Buren.*

LONDON, August 20, 1830.

Sir: I have the satisfaction to forward herewith a letter from the Earl of Aberdeen, dated the 17th instant, by which it will be perceived that my negotiation for the colonial trade is successfully closed; and that this Government consents to restore to us the direct intercourse with her American colonies, upon the terms of the proposition submitted by me on the 12th of December last.

It will be perceived, also, that, from an apprehension that the late act of Congress might admit of an interpretation incompatible with the terms of my proposition, and the act of Parliament of the 5th July, 1825, the British Government have accompanied their consent with an explanation of the construction which, in their opinion, the law ought to receive, and to which their proceedings will be conformed. This is precautionary, however, and intended to guard against misapprehension in future. The proclamation of the President, which is authorized upon evidence satisfactory to himself, will be immediately followed, upon the part of Great Britain, by the revocation of the order in council of July, 1827, the abolition of the discriminating duties on American vessels in British colonial ports, and by extending to the vessels of the United States the advantages of the act of Parliament of the 5th July, 1825.

If it had been admitted that the late act of Congress varied intentionally from the terms of our proposition, and the British act of the 5th July, 1825, and demanded advantages not contemplated by the latter, it would have been considered as reviving pretensions already given up, and must have had the effect of entirely defeating any hope of recovering the colonial trade. Recurring to your letter of the 18th June last, communicating the President's message to Congress, and a copy of the law, I did not doubt that the act was, in fact, intended to authorize the President to give effect, in the recess of Congress, to the known and uniform object of the negotiation, and to accept a renewal of the trade upon the terms of the proposition which I had been authorized to make. I felt it my duty, therefore, to concur in the suggestion, that the supposed

deviations in the law from the act of the 5th July, 1825, were apparent merely, and neither intentional, nor for the purpose of advancing any new claim upon the part of our Government.

My instructions authorized me to propose that the United States should now comply with the conditions of the act of 5th July, 1825, by repealing our restrictive laws, "if such a measure would lead to the revocation of the order in council of July, 1827, to the abolition or suspension of all discriminating duties on American vessels in the British colonial ports, and to the enjoyment by us of the advantages of the last mentioned act of Parliament."

These instructions were literally pursued in the proposition which I submitted in December last, and, together with it, were communicated to Congress. But it will be apparent to you that, if the law necessarily authorize a different construction than that adopted by this Government, it will not be a compliance with the conditions of the act of Parliament, but demand advantages which, by that act, are expressly denied, and by this Government allowed to no other country.

The navigation act of Great Britain, by which all her previous acts upon that subject are repealed, and her system permanently established, passed simultaneously with the act of the 5th July, 1825, regulating the trade of the British possessions abroad; and by that act the importation, both into her European and colonial ports, is restricted to the vessels of the country of which the articles imported shall be the produce. Nor has this restriction been considered inconsistent with our commercial convention with Great Britain, which we have anxiously sought to extend to the colonial intercourse. The beforementioned act of the 5th July, 1825, regulating the trade with the British possessions abroad, refers, in express terms, to the act concerning navigation, and limits the right of importation into the British colonial ports to American produce, and to vessels coming directly from the ports of the United States. By acceding to the terms of our proposition, therefore, Great Britain extends to our vessels all the advantages of the act of 5th July, 1825. She moreover places the United States, in the intercourse with the colonies, on the same footing with all other nations; and by assenting to regulations, though by legislative enactment, in the colonial trade, similar to those provided by our commercial convention for the intercourse between the United States and the British possessions in Europe, she now concedes to us, in this respect, substantially that which we have been ineffectually seeking since the year 1815.

I am not aware that the restriction of the right of importation into the colonies to articles of American produce, was at any period seriously objected to by our Government. Nor can the difference, in this respect, between American and British vessels, if we allow it to continue, be an object of much importance in any point of view. It will generally be our interest, as it is that of every other nation, to allow the exportation of its surplus foreign produce in the vessels of any other country. It must be observed, also, that this is a privilege resulting from the general spirit of our laws, and therefore resting in our discretion. There is nothing in the arrangement now proposed to prevent the United States from hereafter denying to British vessels this advantage, if it prove injurious to their commerce, and in placing by that means the vessels of both countries, in this respect, upon an equal footing. I ought to observe, however, that sound policy would not warrant such a measure at any time.

Independently of these considerations, it is certain that both the restrictions now reserved by the construction adopted by this Government were absolutely conceded by ours before the present negotiation commenced, and could not have been renewed at present with any hope of success. More than has been secured by the present labors, the concessions of the last administration precluded us

from demanding. But if this had not been so, more could not have been obtained.

In the letter of Mr. Gallatin to Mr. Clay of the 27th of October, 1826, the meaning of the British act of Parliament of 5th July, 1825, which does not appear to have been previously understood by our Government, is fully and intelligibly explained. To ascertain the precise state of the regulations at that period, and the extent of the conditions and restrictions prescribed by the famous act of July, 1825, Mr. Gallatin reviewed all the British statutes upon this subject, and superadded the following observations.

"From what precedes, it follows, first, that the restriction which limits the importations in foreign vessels of goods into the British West Indies and American colonies, to vessels of the country of which the goods are the produce, and coming direct from such country, having been revived by the navigation act of the 5th of July, 1825, is still in force; secondly, that the restriction which limited the exportations in foreign vessels of goods exported from the British West Indies and American colonies to a direct exportation to the country to which such vessel did belong, is so far repealed as that such exportations in such vessels may be made to any country whatever, Great Britain and its dependencies excepted."

"Although there is no prospect that any arrangement will shortly take place on that subject, yet it is desirable to be prepared for any contingency. And I wish that the President would take into consideration whether, supposing an arrangement, either by convention or by mutual modification on both sides of existing laws or regulations, to be practicable, it would be proper, so far as relates to navigation, to agree to the terms contained in the acts of Parliament."

"The most important of the restrictions on the direct or circuitous trade, that which limited the exportation from the British West Indies in American vessels to the United States, has been repealed; and there remain but two—such exportations cannot be made in American vessels to Great Britain or her dependencies, a point on which we cannot insist, and which is already given up by the instructions; and the importations into those colonies of American produce, must, if made in American vessels, be direct from the United States. Is it necessary, on that account, to insist on the right of preventing British vessels, other than those coming direct from the colonies, from clearing from the United States for those colonies? Or, in other words, (for it is clear that with such restriction no arrangement is practicable,) is it worth while, on that account, to continue to cut off altogether the intercourse between the United States and the British colonies? On that question I beg leave to submit two observations: First. The right of importing produce of the United States into British West Indies from other places than the United States, is in itself of no great value. It might occasionally be convenient, when the market of Cuba or of other ports in the Gulf of Mexico was glutted with American produce, to have a right to take it in American vessels to the British West India ports; but it is but rarely that these will not, from the same causes, be also glutted at the same time, and that the expense of a double voyage and freight could be incurred. Secondly. Whilst contending for a nominal reciprocity, we must acknowledge that the other party must consider how far this reciprocity will be real. It is now ascertained that four-fifths of the tonnage employed in our intercourse with Great Britain herself are American, and only one-fifth British. Considering the species of population, the climate, and commercial capital of the West Indies, and the distance of Great Britain, it is utterly impossible that the direct intercourse between the United States and the British West Indies should not, with equal duties and charges, be carried on in a still greater proportion in vessels of the United States. The

only compensation, in that respect, to Great Britain, is to be found in the circuitous voyages which British vessels may make from that country through the United States and her West India colonies; and I feel quite confident—I think any man acquainted with the subject will be of the same opinion—that even granting them that privilege, will leave more than three-fourths of the intercourse to our vessels!!”

“It will not escape you that the intercourse by sea between the United States and the British West Indies and North American colonies has already been considered as necessarily connected together by the British Government, and that this connexion has been kept up in the acts of Parliament, in the articles proposed to Mr. Rnsh, and indeed in all former proposals on their part.”

In consequence, as it may be supposed, of this explanation and advice from Mr. Gallatin, our Government thenceforward abandoned whatever pretensions they may have previously set up beyond the acts of Parliament. In a letter from Mr. Clay, dated the 11th April, 1827, containing further instructions to Mr. Gallatin, he was informed “that the President is willing to recommend to Congress, at its next session, first, to suspend the alien duties on British vessels and cargoes, and allow their entry into our ports with the same kind of British or British colonial produce as may be imported in American vessels, the vessels of both countries paying the same charges; and, secondly, to abolish the restriction in the act of 1823 to the direct intercourse between the United States and the British colonies, leaving Great Britain in the exclusive possession of the circuitous trade between Great Britain proper, through her colonies, and the United States. Mr. Gallatin will inquire whether the passage of an act of Congress to that effect would lead to the revocation of the British order in council of July, 1827, to the abolition of the discriminating duties on American vessels in the British colonial ports, and to the enjoyment by our vessels of the advantages offered by the act of the 5th of July, 1825.”

These propositions were communicated by Mr. Gallatin to the British Government, in a note to Lord Dudley, of the 17th of August, 1827, in which he remarks that “this mode would repeal all former acts of the American Government which had been objected to by Great Britain, fulfil the condition in the act of Parliament as now understood, and remove every obstacle in the way to an arrangement; but that it would be useless for the President to make such recommendation without first ascertaining the intentions of the British Government;” and he therefore inquired “whether, upon the passage of such an act as the President proposes to recommend, the British Government would allow to American vessels the privileges of trade and intercourse according to the act of the 5th of July, 1825.” With these communications, it will be seen that my instructions, and the overture by me submitted on the 12th of December last, and now assented to by Great Britain, are entirely coincident.

I have been thus minute, that the precise and uniform object of our negotiation with this Government should not be mistaken; and that the President, clearly and explicitly understanding these, may feel no hesitation, when executing the law, to interpret each particular clause in conformity with the obvious scope and design of the act.

Less difficulty, if possible, than on these points, can exist in regard to the entry of British vessels and their cargoes in the ports of the United States, from the islands, provinces, or colonies, designated in the second section of the act. According to Mr. Gallatin's despatch, “the intercourse by sea between the United States and the British West Indies and North American colonies has already been considered as necessarily connected together by the British Government, and that this connexion has been kept up in all the acts of Parliament.” It will not, therefore, be now separated. The general terms employed in

this section are sufficiently comprehensive to embrace any description of entry; and in his instructions to the several collectors, the President may properly direct an entry similar to that specified in the first section of the bill, and in the spirit of our proposition.

Such, I presume, was the purpose of the law. I have, however, suggested to this Government, in answer to the difficulty felt upon this point, the possibility that these general terms may have proceeded from an apprehension of the existing discriminating duty of one dollar per ton on American vessels in these Northern colonial ports. Should such be the case, it will not escape you that this duty is prescribed by the order of the King in council, in 1823, in retaliation of our law of that year; and that, by the terms of my proposition, it will be now abolished.

If the remaining words of apparent difficulty constitute a provision inconsistent with our proposition and the act of 5th July, 1825, I am obliged to confess myself incapable of comprehending either their object or meaning. I refer, of course, to the following clause: “Leaving the commercial intercourse of the United States with all other parts of the British dominions or possessions on a footing not less favorable to the United States than it now is.”

Such a provision, or any thing resembling it, is now introduced for the first time into our legislation upon this subject. With all other parts of the British dominions, our commercial intercourse is regulated either by the convention with Great Britain, or, with the exception of the ports in the Northern provinces, absolutely prohibited by acts of Parliament. No legislation on either side can affect the stipulations of the convention, and any relaxation of existing prohibitions must be beneficial.

This clause, as it stands, if it be not altogether nugatory and out of place, would seem rather to apprehend some evil, not understood or explained, from advantages to be conferred on our trade by Great Britain. In any view of the subject, however, it can properly relate only to the footing on which our commercial intercourse with other ports will be left at the time of conceding such advantages. Happily, therefore, with whatever object the clause may have been introduced, the President may issue his proclamation with every assurance that the correspondent acts on the part of this Government will leave “the commercial intercourse of the United States with all other parts of the British dominions on a footing not less favorable to the United States than it now is.”

That you may have all the British acts of Parliament relative to this subject before you, and compare without difficulty the various provisions of the act of the 5th of July, 1825, for the encouragement of British shipping and navigation, and of that of the same date regulating the trade with the British possessions abroad, I have the honor herewith to forward you “Hume's Custom Laws,” containing all that may be useful in your researches.

The observations of the Earl of Aberdeen relative to the scale of duties in favor of those interests incidentally fostered by the suspension of the intercourse between the United States and the West Indies, are less unfavorable than, at the date of my despatch of the 6th of April, I had reason to apprehend. It was on the ground of this apprehension, principally, that, in my note to Lord Aberdeen of the 12th of July last, I alluded so particularly to the acts of Congress reducing the duty on several articles of West India produce.

Though it may be probable that the schedule of duties adopted contemporaneously with the act of Parliament of the 5th of July, 1825, will be hereafter modified, the effect must be more severely felt by the West India planter, already overburdened, than by our merchants; and in this there is a safe guaranty against any excessive alteration. There is good reason to believe, moreover, that such modification, whenever it shall be made, will consist in reducing the duty on some important articles, while it

may increase it on others; and that our trade, in the aggregate, will not be materially affected. This modification, however, is not a part or condition of the present arrangement, and will therefore depend upon future contingencies, of which each nation will be free to take advantage; and ours, particularly, to resort to countervailing duties, if that course be deemed expedient. On this question, we will always have the West Indian interest on our side; and that, after the concessions heretofore made, is all we can expect. The arrangement now proposed will restore to our vessels the direct trade with the British colonial ports, and place the navigation of both countries in that trade upon an equal footing. We may safely rely upon the skill and enterprise of the American merchants to accomplish the rest.

I need scarcely refer to the period for which this question has embarrassed the trade of our citizens and the relations of the two countries, nor to the numerous failures which have attended the efforts of our Government to adjust it. But it ought not to be forgotten that, in producing these failures, technical interpretations and misapprehension of legal provisions have had their full share. Sensible of this, I felt it my duty to guard, if possible, against their recurrence; and after the solicitude and perseverance with which I have conducted the negotiation, I could not shun the responsibility of attempting to reconcile the apparent obscurities of the law with the clear and frank object of our Government. I am happy to believe, moreover, that, in the attempt, I am fully sustained by the soundest principles of construction. In any event, I shall feel conscious that, with the sincerest desire to conform to the instructions, and sustain the character of the Executive, I have faithfully contributed to succor the enterprise of my fellow-citizens, and to place the foreign relations of the country upon a foundation of lasting harmony.

I have the honor to be, sir, very respectfully, your obedient servant,

LOUIS McLANE.

To the Hon. MARTIN VAN BUREN,  
*Secretary of State, Washington.*

*The Earl of Aberdeen to Mr. McLane.*

FOREIGN OFFICE, August 17, 1830.

The undersigned, his Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note of Mr. McLane, envoy extraordinary and minister plenipotentiary from the United States of America to this court, dated the 12th ultimo, communicating certain measures which have been adopted by Congress with a view to remove the obstacles which have hitherto impeded the re-establishment of the commercial intercourse between the United States and the British West India colonies.

Previously to the receipt of this communication, his Majesty's Government had already had under their consideration Mr. McLane's note of the 16th March last, explanatory of the proposition contained in his letter of the 12th of December, 1829, with reference to the same subject; and the undersigned assures Mr. McLane that his Majesty's Government, in the earnest and dispassionate attention which they bestowed upon this proposition, were actuated by the most friendly feelings towards the Government of the United States, and by a sincere disposition to meet the proposals which he was authorized to make, in the spirit with which they were offered.

But the undersigned considers it unnecessary now to enter into any detailed discussion of the points embraced in those previous communications of Mr. McLane, because they are in a great measure superseded by the more specific, and therefore more satisfactory, propositions contained in his note of the 12th ultimo; to the contents of

which note, therefore, the undersigned will principally confine his present observations.

Of the character and effect of the recent measure of the American Congress, Mr. McLane observes, that "it concedes, in its terms, all the power in the regulation of the colonial trade, and authorizes the President to confer on British subjects all those privileges, as well in the circuitous as the direct voyage, which Great Britain has at any time demanded or desired."

In this declaration the undersigned is happy to observe the same spirit and disposition which dictated Mr. McLane's former communications, wherein he announced the readiness and desire of the American Government "to comply with the conditions of the act of Parliament of 1825," and, also, "that the claims advanced in justification of the omission of the United States to embrace the offers of this country, have been abandoned by those who urged them, and have received no sanction from the people of the United States;" and the undersigned readily admits, that, if the bill passed by the American Legislature be well calculated practically to fulfil the expressed intentions of its framers, it must have the effect of removing all those grounds of difference between the two Governments, with relation to the trade between the United States and the British colonies, which have been the subject of so much discussion, and which have constituted the main cause of the suspension of the intercourse by those restrictive acts of the United States which the American Government is now prepared to repeal.

The proposition now made by Mr. McLane for the revocation of the order in council of 1826, stands upon a ground materially different from that on which the same question was brought forward in the notes of Mr. Gallatin in 1827, and even in the more explanatory overtures of Mr. McLane, contained in his communications of December, 1829, and March, 1830.

Those several proposals were, all of them, invitations to the British Government to pledge itself, hypothetically, to the revocation of the order in council, in the event of a repeal of those acts of the American Congress which gave occasion to it. His Majesty's Government declined to give that prospective pledge or assurance, on the grounds stated in Lord Dudley's note of the 1st October, 1827. But the objections then urged are not applicable to the present overture. Provision has now been made by an act of the American Legislature, for the re-establishment of the suspended intercourse upon certain terms and conditions; and that act being now before his Majesty's Government, it is for them to decide whether they are prepared to adopt a corresponding measure on the part of Great Britain for that object.

The undersigned is ready to admit that, in spirit and substance, the bill transmitted by Mr. McLane is conformable to the view which he takes of it in the expression before quoted from his note of the 12th July; and that it is calculated, therefore, to afford to Great Britain complete satisfaction on the several points which have been heretofore in dispute between the two countries. He has also received, with much satisfaction, the explanation which Mr. McLane has afforded him verbally, in the last conference which the undersigned had the honor of holding with him, upon those passages in which the wording of the bill appears obscure, and in which it seems at least doubtful whether the practical construction of it would fully correspond with the intentions of the American Government, as expressed by Mr. McLane. But it is, nevertheless, necessary, in order to remove all possibility of future misapprehension upon so important a subject, that he should recapitulate the points upon which those doubts have arisen, and distinctly state the sense in which the undersigned considers Mr. McLane as concurring with him in the interpretation of them.

The first point in which a question might arise, is in that

passage of the bill wherein it is declared, as one of the conditions on which the restrictions now imposed by the United States may be removed, "that the vessels of the United States, and their cargoes, on entering the ports of the British possessions, as aforesaid, (viz. in the West Indies, on the continent of America, the Bahama islands, the Caicos, and the Bermuda or Somer islands,) shall not be subject to other or higher duties of tonnage or impost, or charges of any other description, than would be imposed on British vessels, or their cargoes, arriving in the said colonial possessions from the United States of America." It is not quite clear whether the concluding words, "from the United States of America," are meant to apply to the vessels of the United States, and their cargoes, in the first part of the paragraph, as well as to those of Great Britain or her colonies, in the latter part.

It can scarcely, indeed, have been intended that this stipulation should extend to American vessels coming with cargoes from any other places than the United States, because it is well known that, under the navigation laws of Great Britain, no foreign vessel could bring a cargo to any British colonial port from any other country than its own.

The next condition expressed in the act is, "that the vessels of the United States may import into the said colonial possessions from the United States any article or articles which could be imported in a British vessel into the said possessions from the United States."

In this passage it is not made sufficiently clear that the articles to be imported on equal terms by British or American vessels from the United States must be the produce of the United States. The undersigned, however, cannot but suppose that such a limitation must have been contemplated, because the clause of the navigation act already adverted to, whereby an American vessel would be precluded from bringing any article not the produce of America to a British colonial port, is not only a subject of universal notoriety, but the same provision is distinctly made in the act of Parliament of 1825, which has been so often referred to in the discussions on this subject.

It was also necessary that the undersigned should ask for some explanation of that section of the bill which has reference to the entry of vessels into the ports of the United States from the continental colonies of Great Britain in North America. These are not placed, in the terms of the act, on the same footing as the ships coming from the colonies of the West Indies.

With respect to the latter, the express provision made for the direct intercourse with those colonies, together with the simultaneous repeal of the several American acts which interdict, at present, the carriage of goods from the United States to West Indian ports, in ships having arrived from other ports in the British dominions, appears fully to warrant the expression before quoted, of Mr. McLane, "that the act would confer on British vessels all those privileges, as well in the circuitous as in the direct voyage, which Great Britain has at any time demanded." But, with regard to the continental colonies, there is merely a provision for "admitting to entry, in the ports of the United States, British vessels or their cargoes from the islands, provinces, or colonies of Great Britain, on or near the North American continent, and north or east of the United States." It must, indeed, be presumed, that vessels from these colonies are intended to be admitted upon the same terms, in all respects, and to be entitled to the same privileges, as British ships from any other British colony.

The act of Congress requires, as a further condition, that, when the intercourse with the West India colonies shall be opened by Great Britain, "the commercial intercourse of the United States with all other parts of the British dominions or possessions shall be left on a footing not less favorable to the United States than it now is."

Although it may be most truly stated that there ex-

ists, at this time, no intention to make any alteration in the commercial policy of Great Britain, and equally that there is no disposition on the part of his Majesty's Government to restrict, in any measure, the commercial relations between this country and the United States, yet the positive condition to maintain unchanged, or upon any particular footing of favor, every part of our system of trade affecting our intercourse with America, could not, with propriety, be made the subject of any specific engagement connected with the renewal of the colonial intercourse. Whether that intercourse be renewed or not, it ought to remain at all times as free as it now is, both to the Government of Great Britain and to that of the United States, to adopt, from time to time, such commercial regulations as either State may deem to be expedient for its own interests, consistently with the obligations of existing treaties.

It is due to the candor with which the communications of Mr. McLane have been made on this subject, that the undersigned should be thus explicit in noticing the passage in the bill to which he has now adverted.

Mr. McLane, in his note of the 12th ultimo, has described and explained the material diminution which has been made in the duties payable in the United States on the importation of certain articles of colonial produce. This measure has been viewed by his Majesty's Government with sincere satisfaction, as indicating a disposition to cultivate a commercial intercourse with his Majesty's colonies, upon a footing of greater freedom and reciprocal advantage than has hitherto existed. But the undersigned must frankly state, that, in the general consideration of the question now to be determined, no weight ought to be assigned to the reduction of those duties, as forming any part of the grounds on which the re-establishment of the intercourse may be accorded to. Those changes are part of the general scheme of taxation which the American Government may, at all times, impose or modify, with the same freedom as that which Great Britain may exercise in the regulation of any part of its system of duties; and it is the more essential that his Majesty's Government should not contract, by implication, any engagement towards that of the United States with respect to such alterations, because his Majesty's Government have already had under their consideration the expediency of introducing some modifications into the schedule of duties attached to the act of Parliament of 1825, with a view more effectually to support the interests of the British North American colonies. To those interests, fostered, as they have incidentally been, by the suspension of the intercourse between the United States and the West Indies, his Majesty's Government will continue to look with an earnest desire to afford them such protection by discriminating duties as may appear to be consistent with the interests of other parts of his Majesty's dominions, and with a sound policy in the commercial relations of this country with all other States.

The undersigned has thought it desirable that this point should be distinctly understood on both sides, in order that no doubt should exist of the right of Great Britain to vary those duties from time to time, according to her own views of expediency, unfettered by any obligation, expressed or implied, towards the United States or any other country.

The undersigned adverts again with satisfaction to the verbal explanations which he has received from Mr. McLane of those passages in the act of Congress which have not appeared to the undersigned to be literally adapted to the provisions of the act of Parliament of 1825. He concurs with Mr. McLane in thinking that these will be found to have been merely apparent deviations from the conditions of that statute, because the whole of the recent proceedings of the American Government and Legislature in this matter have been manifestly and expressly founded upon a determination to conform to it. Any other view



of the subject would be entirely at variance with the tenor of the several communications from Mr. McLane before adverted to, which have all been conformable to the explicit proposition contained in his note of the 12th December, 1829, "that the Government of the United States should now comply with the conditions of the act of Parliament of July 5, 1825, by an express law, opening their ports for the admission of British vessels, and by allowing their entry with the same kind of British colonial produce as may be imported in American vessels, the vessels of both countries paying the same charges; suspending the alien duties on British vessels and cargoes, and abolishing the restrictions in the act of Congress of 1823 to the direct intercourse between the United States and the British colonies; and that such a law should be immediately followed by a revocation of the British order in council of the 27th July, 1826, the abolition or suspension of all discriminating duties on American vessels in the British colonial ports, and the enjoyment, by the United States, of the advantages of the act of Parliament of the 5th July, 1825." It only remains, therefore, for the undersigned to assure Mr. McLane, that, if the President of the United States shall determine to give effect to the act of Congress, in conformity with the construction put upon its provisions both by Mr. McLane and by the undersigned, all difficulty on the part of Great Britain, in the way of a renewal of the intercourse between the United States and the West Indies, according to the foregoing proposition made by Mr. McLane, will thereby be removed.

The undersigned has the honor to renew to Mr. McLane the assurances of his highest consideration.

ABERDEEN.

LOUIS McLANE, Esq. &c.

*Mr. Van Buren to Mr. McLane.*

DEPARTMENT OF STATE,  
Washington, October 5, 1830.

SIR: Your despatch of the 20th August was, on the 3d instant, received at this department, and, with its contents, laid before the President.

You will perceive by the enclosed proclamation, and instructions from the Treasury Department to the collectors of customs, that the President has adopted without reserve the construction given to the act of Congress of the 29th of May, 1830, by Lord Aberdeen and yourself, by accepting the assurance of the British Government, with the accompanying explanations, as a compliance with its requisitions, and by doing all that was necessary to carry the proposed arrangement into complete effect on the part of the United States. By virtue of the President's proclamation, and the operation of the act of Congress above referred to, our restrictive acts are repealed, and the ports of the United States opened to British vessels coming from any of the British colonial possessions mentioned in both sections of the act, upon the terms stated in that act, and in the accompanying instruction. The President does not doubt that, having thus giving effect to the arrangement on the part of this Government, that of Great Britain will, without delay, do what is necessary on its side to remove all existing obstructions to the renewal of the intercourse between the United States and the British colonial possessions referred to, according to the proposition submitted by you and accepted by that Government. He allows himself also to expect that the circumstance that the ports of the United States are forthwith open to British vessels, whilst the opening of those of Great Britain must await the action of the British Government, thus producing temporarily an unequal operation, will induce his Majesty's Government to give to the matter its earliest attention.

The President has derived great satisfaction from the candor and liberality which have characterized the con-

duct of his Majesty's ministers throughout the negotiation, and particularly in not suffering the inadvertencies of our legislation, attributable to the haste and confusion of the closing scenes of the session, to defeat or delay the adjustment of a question, with respect to the substance of which, and the interest of the two countries, in its adjustment, both Governments are now happily of one opinion. He cherishes the most lively anticipations of the solid benefits which will flow from the trade that is about to revive, as well as of the benign influence which the satisfactory removal of a long standing and vexatious impediment to the extension of their commercial intercourse is calculated to exercise upon the relations between the two countries. It is his wish that you should make his Majesty's Government acquainted with these sentiments, and assure it that he will neglect no opportunity which may present itself to prove his sincere desire to strengthen and improve those relations by every act within the sphere of his authority which may contribute to confirm the good understanding so happily established.

It is also to me a pleasing duty to express to you, as I am directed to do, the entire satisfaction of the President with your conduct on this important occasion. The untiring zeal, patriotic exertions, and great ability, which you have displayed in the difficult negotiation thus satisfactorily concluded, realize all the anticipations he had formed from the employment of your talents in this important branch of the public service, and entitle you to the thanks of your country. To these sentiments I beg leave to add the expression of my own unqualified approbation of all your acts since the commencement of your mission near the Government of Great Britain.

I am, with great respect, your obedient servant,

M. VAN BUREN.

LOUIS McLANE, Esq. *Envoy Extraordinary, &c.*

*By the President of the United States of America.*

#### A PROCLAMATION.

Whereas, by an act of the Congress of the United States, passed on the twenty-ninth day of May, one thousand eight hundred and thirty, it is provided, that, whenever the President of the United States shall receive satisfactory evidence that the Government of Great Britain will open the ports in its colonial possessions in the West Indies, on the continent of South America, the Bahama islands, the Caicos, and the Bermuda or Sonor islands, to the vessels of the United States, for an indefinite or for a limited term, that the vessels of the United States, and their cargoes, on entering the colonial ports aforesaid, shall not be subject to other or higher duties of tonnage or impost, or charges of any other description, than would be imposed on British vessels, or their cargoes, arriving in the said colonial possessions from the United States; that the vessels of the United States may import into the said colonial possessions, from the United States, any article or articles which could be imported in a British vessel into the said possessions from the United States; and that the vessels of the United States may export from the British colonies aforesaid, to any country whatever, other than the dominions or possessions of Great Britain, any article or articles that can be exported therefrom in a British vessel, to any country other than the British dominions or possessions aforesaid—leaving the commercial intercourse of the United States with all other parts of the British dominions or possessions on a footing not less favorable to the United States than it now is—that then, and in such case, the President of the United States shall be authorized, at any time before the next session of Congress, to issue his proclamation, declaring that he has received such evidence; and that, thereupon, and from the date of such proclamation, the ports of the United States

shall be opened indefinitely, or for a term fixed, as the case may be, to British vessels coming from the said British colonial possessions, and their cargoes, subject to no other or higher duty of tonnage or impost, or charge of any description whatever, than would be levied on the vessels of the United States, or their cargoes, arriving from the said British possessions; and that it shall be lawful for the said British vessels to import into the United States, and to export therefrom, any article or articles which may be imported or exported in vessels of the United States; and that the act entitled "An act concerning navigation," passed on the eighteenth day of April, one thousand eight hundred and eighteen, an act supplementary thereto, passed the fifteenth day of May, one thousand eight hundred and twenty, and an act entitled "An act to regulate the commercial intercourse between the United States and certain British ports," passed on the first day of March, one thousand eight hundred and twenty-three, shall, in such case be suspended or absolutely repealed, as the case may require:

And whereas, by the said act, it is further provided, that, whenever the ports of the United States shall have been opened under the authority thereby given, British vessels and their cargoes shall be admitted to an entry in the ports of the United States, from the islands, provinces, or colonies of Great Britain, on or near the North American continent, and north or east of the United States:

And whereas satisfactory evidence has been received by the President of the United States, that, whenever he shall give effect to the provisions of the act aforesaid, the Government of Great Britain will open, for an indefinite period, the ports of its colonial possessions in the West Indies, on the continent of South America, the Bahama islands, the Caicos, and the Bermuda or Somer islands, to the vessels of the United States, and their cargoes, upon the terms, and according to the requisitions, of the aforesaid act of Congress:

Now, therefore, I Andrew Jackson, President of the United States of America, do hereby declare and proclaim that such evidence has been received by me; and that, by the operation of the act of Congress passed on the 29th of May, 1830, the ports of the United States are, from the date of this proclamation, open to British vessels coming from the said British possessions, and their cargoes, upon the terms set forth in the said act; the act entitled "An act concerning navigation," passed on the 18th of April, 1818, the act supplementary thereto, passed the 15th of May, 1820, and the act entitled "An act to regulate the commercial intercourse between the United States and certain British ports," passed the 1st of March, 1823, are absolutely repealed; and British vessels and their cargoes are admitted to an entry in the ports of the United States, from the islands, provinces, and colonies of Great Britain, on or near the North American continent, and north or east of the United States.

Given under my hand, at the city of Washington, the 5th of October, in the year of our Lord 1830, and the fifty-fifth of the independence of the United States.

ANDREW JACKSON.

By the President:

M. VAN BUREN,  
*Secretary of State.*

*Circular to the Collectors of Customs.*

TREASURY DEPARTMENT,  
October 6, 1830.

SIR: You will perceive by the proclamation of the President, herewith transmitted, that, from and after the date thereof, the act entitled "An act concerning navigation," passed on the 18th of April, 1818, an act supplementary

thereto, passed the 15th of May, 1820, and an act entitled "An act to regulate the commercial intercourse between the United States and certain British ports," passed on the 1st of March, 1823, are absolutely repealed; and the ports of the United States are opened to British vessels and their cargoes coming from the British colonial possessions in the West Indies, on the continent of South America, the Bahama islands, the Caicos, and the Bermuda or Somer islands; also, from the islands, provinces, or colonies of Great Britain on or near the North American continent, and north or east of the United States. By virtue of the authority of this proclamation, and in conformity with the arrangement made between the United States and Great Britain, and under the sanction of the President, you are instructed to admit to entry such vessels, being laden with the productions of Great Britain or her said colonies, subject to the same duties of tonnage and impost, and other charges, as are levied on the vessels of the United States, or their cargoes, arriving from the said British colonies. You will, also, grant clearances to British vessels for the several ports of the aforesaid colonial possessions of Great Britain, such vessels being laden with such articles as may be exported from the United States in vessels of the United States: and British vessels, coming from the said British colonial possessions, may also be cleared for foreign ports and places other than those in the said British colonial possessions, being laden with such articles as may be exported from the United States in vessels of the United States.

I am, sir, very respectfully, your obedient servant,

S. D. INGHAM,  
*Secretary of the Treasury.*

*Extract:—Mr. McLane to Mr. Van Buren, dated*

LONDON, November 6, 1830.

I received on the 2d instant your despatch, number 22, of the 5th October, transmitting the proclamation of the President, and instructions from the Treasury Department to the collectors of customs, executing, on the part of our Government, the proposed arrangement with this, for the restoration of the direct intercourse with the British West Indies. I communicated these documents to the Earl of Aberdeen on the 3d instant, and have the honor to transmit herewith his answer thereto, and an order of the King in council, completing the proposed arrangement on the part of Great Britain, and fully closing the negotiation upon this important part of our relations.

This arrangement has already produced, and will continue to produce, considerable dissatisfaction in the British Northern provinces, and with those interests which have been incidentally fostered by the omission of our Government to comply with the terms of the act of 5th July, 1825, and the British order in council of July, 1826. It may be expected, therefore, as I have already stated in my former despatches, that some attempt will be immediately made to reconcile those interests to the restoration of the direct intercourse. Some of the duties in favor of the Northern productions will, doubtless, be increased, but others will be reduced. I cannot, however, at this moment, speak fully or with entire certainty of the intentions of this Government in that respect.

It may be proper for me to inform you, that, by the act of Parliament of the 2d July, 1827, entitled "An act to amend the laws relating to the customs," the importation of salted beef and pork is admitted into Newfoundland free of duty, and into all the other British ports at a duty of twelve shillings sterling the hundred weight. Under the present arrangement, by which the colonial ports are now opened to our vessels, we shall be entitled to the benefit of this act, and in that way acquire a valuable branch of trade, which we could not have enjoyed by the famous act of 5th July, 1825.

*Mr. McLane to Lord Aberdeen.*

9, CHANDOS STREET, PORTLAND PLACE,  
November 3, 1830.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has the honor to transmit herewith to the Earl of Aberdeen, his Majesty's principal Secretary of State for Foreign Affairs, a proclamation issued by the President of the United States on the 5th of October last, and, also, a letter of instructions from the Secretary of the Treasury, in conformity thereto, to the several collectors of the United States, removing the restrictions on the trade in British vessels with the ports of the United States and the colonial possessions of Great Britain. And the undersigned takes leave to add, that, although these papers appear to be sufficiently clear and explicit, he will take much pleasure in making any further personal explanation of their import that may be considered desirable.

It will be perceived, however, that, by virtue of the foregoing proclamation, and the operation of the act of Congress of the 29th May, 1830, the restrictive acts of the United States are absolutely repealed; that the ports of the United States are open to the admission and entry of British vessels coming from any of the British ports mentioned in both sections of the said act, with the same kind of British colonial produce as may be imported in American vessels, and upon the same terms; that the alien duties, in the ports of the United States, on British vessels, and their cargoes, and also the restrictions in the act of the Congress of the United States of 1823 to the direct intercourse between the United States and the British West India colonies, are abolished.

The undersigned has the honor to state further, that these acts have been performed by the President in conformity with the letter of the Earl of Aberdeen of the 17th of August last; and that, by accepting the assurance of the British Government, with the accompanying explanation, as a compliance with the requisitions of the act of Congress of the 29th May, 1830, and doing all that was necessary on the part of the United States to effect the proposed arrangement, he has adopted, without reserve, the construction put upon the act of Congress both by the Earl of Aberdeen and the undersigned.

In communicating these documents to the Earl of Aberdeen, the undersigned is instructed to inform him that the President has derived great satisfaction from the candor manifested by his Majesty's ministers in the course of the negotiation; and that, having thus given effect to the arrangement on the part of the United States, he does not doubt that Great Britain, acting in the spirit and terms of the proposition submitted by the undersigned, and accepted in the letter of Lord Aberdeen of the 17th of August last, will as promptly comply with those terms on her part, and remove the existing obstructions to the renewal of the intercourse between the ports of the United States and the British colonial possessions.

In conclusion, the undersigned takes leave to state, that, from the date of the proclamation of the President, the vessels of Great Britain have been and are actually in the enjoyment of all the advantages of the proposed arrangement, while the vessels of the United States are and must remain excluded from the same until the requisite measures shall be adopted by this Government. The undersigned has the honor to ask, therefore, that the Earl of Aberdeen will enable him to communicate the adoption of those measures to his Government, by the opportunity which will offer for that purpose on the 6th instant.

The undersigned avails himself of this occasion to renew to the Earl of Aberdeen the assurance of his highest consideration.

LOUIS McLANE.

The Rt. Hon. the Earl of ABERDEEN, &c.

*Lord Aberdeen to Mr. McLane.*

FOREIGN OFFICE, November 5, 1830.

The undersigned, his Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note of Mr. McLane, envoy extraordinary and minister plenipotentiary from the United States at this court, of the 3d instant, in which he encloses a proclamation issued by the President of the United States on the 5th ultimo, and also a letter of instructions from the Secretary of the Treasury, in conformity thereto, to the several collectors of the United States, removing the restrictions on the trade in British vessels with the ports of the United States and the colonial possessions of Great Britain.

Mr. McLane observes, that, by virtue of the proclamation in question, and the operation of the act of Congress of the 29th May, 1830, the restrictive acts of the United States are absolutely repealed; that the ports of the United States are opened to the admission and entry of British vessels coming from any of the British ports mentioned in both sections of the said act, with the same kind of British colonial produce as may be imported in American vessels, and upon the same terms; that the alien duties, in the ports of the United States, on British vessels and their cargoes, and also the restrictions in the act of Congress of the United States of 1823 to the direct intercourse between the United States and the British West India colonies, are abolished.

Mr. McLane adds, that, in performing these acts, the President of the United States has adopted, without reserve, the construction put upon the act of Congress of the 29th of May, 1830, by himself, and by the undersigned in his note of the 17th of August last.

The undersigned having stated to Mr. McLane, in his above mentioned note, that, under such circumstances, all difficulty on the part of Great Britain, in the way of the renewal of the intercourse between the United States and the West Indies, according to the proposition made by Mr. McLane, would be removed, he has now the honor to transmit to Mr. McLane the accompanying copy of an order issued by his Majesty in council this day, for regulating the commercial intercourse between the United States and his Majesty's possessions abroad.

The undersigned cannot omit this opportunity of expressing to Mr. McLane the satisfaction of his Majesty's Government at the promptitude and frankness with which the President of the United States has concurred in the view taken by them of this question; and at the consequent extension of that commercial intercourse which it is so much the interest of both countries to maintain, and which his Majesty will always be found sincerely desirous to promote by all the means in his power.

The undersigned avails himself of this occasion to renew to Mr. McLane the assurances of his highest consideration.

ABERDEEN.

LOUIS McLANE, Esq. &c.

AT THE COURT AT ST. JAMES',  
November 5, 1830.

Present: The King's Most Excellent Majesty in council.

Whereas, by a certain act of Parliament, passed in the sixth year of the reign of his late Majesty King George the Fourth, entitled "An act to regulate the trade of the British possessions abroad," after reciting that "by the law of navigation foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, goods the produce of those countries, and to export goods from such possessions to be carried to any foreign country whatever, and that it is expedient that such permission should be subject to certain conditions, it is therefore enacted, that the privileges there-

by granted to foreign ships shall be limited to the ships of those countries which, having colonial possessions, shall grant the like privilege of trading with those possessions to British ships, or which, not having colonial possessions, shall place the commerce and navigation of this country and of its possessions abroad upon the same footing of the most favored nation, unless his Majesty, by his order in council, shall in any case deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not in all respects be fulfilled by such foreign country." And whereas, by a certain order of his said late Majesty in council, bearing date the 27th day of July, 1826, after reciting that the conditions mentioned and referred to in the said act of Parliament had not in all respects been fulfilled by the Government of the United States of America, and that, therefore, the privileges so granted as aforesaid by the law of navigation to foreign ships could not lawfully be exercised or enjoyed by the ships of the United States aforesaid, unless his Majesty, by order in council, should grant the whole or any of such privileges to the ships of the United States aforesaid, his said late Majesty did, in pursuance of the powers in him vested by the said act, grant the privileges aforesaid to the ships of the said United States, but did thereby provide and declare that such privileges should absolutely cease and determine in his Majesty's possessions in the West Indies and South America, and in certain other of his Majesty's possessions abroad, upon and from certain days in the said order for that purpose appointed, and which are long since passed: And whereas, by a certain other order of his said late Majesty in council, bearing date the 16th of July, 1827, the said last mentioned order was confirmed: And whereas, in pursuance of the acts of Parliament in that behalf made and provided, his said late Majesty, by a certain order in council, bearing date the 21st day of July, 1823, and by the said order in council, bearing date the 27th day of July, 1826, was pleased to order that there should be charged on all vessels of the said United States which should enter any of the ports of his Majesty's pos-

sessions in the West Indies or America, with articles of the growth, produce, or manufacture of the said States, certain duties of tonnage and of customs therein particularly specified: And whereas it hath been made to appear to his Majesty in council, that the restrictions heretofore imposed by the laws of the United States aforesaid upon British vessels navigating between the said States and his Majesty's possessions in the West Indies and America have been repealed, and that the discriminating duties of tonnage and of customs heretofore imposed by the laws of the said United States upon British vessels and their cargoes, entering the ports of the said States from his Majesty's said possessions, have been also repealed; and that the ports of the United States are now open to British vessels and their cargoes coming from his Majesty's possessions aforesaid: His Majesty doth, therefore, with advice of his privy council, and in pursuance and exercise of the powers so vested in him as aforesaid, by the said act so passed in the sixth year of the reign of his said late Majesty, or by any other act or acts of Parliament, declare that the said recited orders in council of the 21st day of July, 1823, and of the 27th day of July, 1826, and the said order in council of the 16th day of July, 1827, (so far as the such last mentioned order relates to the said United States,) shall be, and the same are hereby, respectively revoked: And his Majesty doth further, by the advice aforesaid, and in pursuance of the powers aforesaid, declare that the ships of and belonging to the United States of America may import from the United States aforesaid, into the British possessions abroad, goods the produce of those States, and may export goods from the British possessions abroad, to be carried to any foreign country whatever.

And the Right Honorable the Lords Commissioners of his Majesty's Treasury, and the Right Honorable Sir George Murray, one of his Majesty's principal Secretaries of State, are to give the necessary directions herein, as to them may respectively appertain.

JAMES BULLER.

A true copy.  
COUNCIL OFFICE, WHITEHALL, Nov. 6, 1830.

[The schedule of duties, and the extract of a letter relating to it, (referred to in the list of papers,) are omitted.]





# ACTS OF THE TWENTY-FIRST CONGRESS

OF THE

## UNITED STATES:

PASSED AT THE SECOND SESSION, WHICH WAS BEGUN AND HELD AT THE CITY OF WASHINGTON, IN THE DISTRICT OF COLUMBIA, ON MONDAY, THE SIXTH DAY OF DECEMBER, ONE THOUSAND EIGHT HUNDRED AND THIRTY, AND ENDED ON THE THIRD DAY OF MARCH, ONE THOUSAND EIGHT HUNDRED AND THIRTY-ONE.

AN ACT to change the time of holding the rule term of the Circuit Court for the District of West Tennessee.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be the duty of the District Judge of Tennessee, to hold a term of the Circuit Court at Nashville, for the District of West Tennessee, on the first Monday in March, in each year, who shall have power to make all necessary rules and orders touching any suit, action, appeal, writ of error, process, pleadings or proceedings, that may be pending in said Circuit Court, or that may have issued returnable to the Circuit Court to be holden on the first Monday in September next, preparatory to the hearing, trial, or decision of such action, suit, appeal, writ of error, process, pleadings, or proceedings; and all writs and process may hereafter be returnable to the said Courts to be holden on the first Monday in March, in the same manner as to the sessions of the Circuit Courts directed by law to be held at Nashville on the first Monday in September of each year; and the writs and other process returnable to the said Circuit Court on the first Monday in September, may bear teste on the first Monday in March.

SEC. 2. *And be it further enacted,* That the said District Judge shall have power to adjourn from day to day, or to any other period of time, more than three months before the September term of said Court: *Provided,* That no final judgment be rendered at said term to be held by the District Judge, except by the consent of both parties.

ANDREW STEVENSON,  
Speaker of the House of Representatives.  
JOHN C. CALHOUN,  
President of the Senate.

Approved: January 13, 1831.

ANDREW JACKSON.

AN ACT to amend an act, entitled "An act to provide for paying to the State of Illinois three per centum of the nett proceeds arising from the sale of the public lands within the same."

*Be it enacted, &c.* That so much of the act, entitled, an act to provide for paying to the State of Illinois three per centum of the nett proceeds arising from the sale of the public lands within the same," approved the twelfth of December, eighteen hundred and twenty, as requires an annual account of the application, by the said State, of

the said three per centum to be transmitted to the Secretary of the Treasury be, and the same is hereby repealed.  
Approved: January 13, 1831

AN ACT making appropriations for carrying into effect certain Indian Treaties.

*Be it enacted, &c.* That the following sums be, and the same are hereby appropriated, for the service of the year one thousand eight hundred and thirty:

For the annual support of a school for the education of Indian youth, as stipulated for by the sixth article of the treaty of the fifth of August, one thousand eight hundred and twenty-six, with the Chippewa tribe of Indians, one thousand dollars;

For the payment of the annuity of two thousand dollars, and also the sum of two thousand dollars for education, as stipulated for by the third article of the treaty of the sixteenth October, one thousand eight hundred and twenty-six, with the Potawattamies, the annual sum of four thousand dollars;

For the annual support of a blacksmith and miller, and for furnishing annually one hundred and sixty bushels of salt, under the same treaty, one thousand five hundred and twenty dollars;

For the payment of the permanent and limited annuities provided for by the second article of the treaty with the Pottawattamies, of the twentieth of September, one thousand eight hundred and twenty-eight, annually the sum of three thousand dollars;

For tobacco, iron, steel, education, annuity to the principal chief, and employment of laborers, by same article, one thousand nine hundred and sixty dollars;

For payment of permanent annuity under the fourth article of the treaty with the Miamies, of the twenty-third of October, one thousand eight hundred and twenty-six, twenty-five thousand dollars;

For iron, steel, tobacco, and laborers, by same article, one thousand one hundred dollars.

For support of the poor and infirm, and for education, under the sixth article of said treaty, two thousand dollars.  
Approved: January 13, 1831.

AN ACT for the benefit of schools in Lawrence county, Mississippi.

*Be it enacted, &c.* That one section of the public lands subject to private entry and sale in the state of Mississippi, be located for the use and benefit of schools in

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Lawrence county, in said State, in lieu of the sixteenth section, sold and patented to Will Whitehead.

SEC. 2. *And be it further enacted*, That any person appointed by order of the Probate Court, in and for the county of Lawrence, be, and he is hereby, authorized to locate the quantity of land named in this act, for the purposes above named.

Approved: January 13, 1831.

#### AN ACT for the relief of Aaron Fitzgerald.

*Be it enacted*, &c. That the Secretary of War be directed to place Aaron Fitzgerald on the pension list during life, at twelve dollars per month, instead of the pension which he now receives.

SEC. 2. *And be it further enacted*, That there be paid to the said Aaron Fitzgerald the sum of three hundred and sixty-one dollars and sixty-six cents; being the difference between six dollars per month actually allowed him as a pension, and eight dollars per month which ought to have been allowed him from the twenty-first of February, one thousand, eight hundred and fifteen, to the eleventh of March, one thousand eight hundred and thirty; and that the said sum be paid to him out of any money in the Treasury not otherwise appropriated.

Approved: January 13, 1831.

AN ACT to amend an act, entitled "An act to provide for paying to the States of Missouri, Mississippi, and Alabama, three per centum of the nett proceeds arising from the sale of the public lands within the same."

*Be it enacted*, &c. That so much of an act, entitled "An act to provide for paying to the States of Missouri, Mississippi, and Alabama, three per centum of the nett proceeds arising from the sale of the public lands within the same," approved the third of May, eighteen hundred and twenty-two, as requires an annual account of the application of the said three per centum, to be transmitted to the Secretary of the Treasury, be, and the same is hereby repealed.

Approved: January 19, 1831.

#### AN ACT for the relief of Thomas Fitzgerald.

*Be it enacted*, &c. That the Secretary of War be, and he hereby is, directed to cause to be paid to Thomas Fitzgerald, an invalid pensioner of the United States, the sum of two hundred and eighty-four dollars and twenty-two cents, being arrearages of pension to which he is entitled on account of a total disability received while in the service of the United States, and which has heretofore been withheld in consequence of a mistake in first placing his name on the pension roll.

Approved: January 19, 1831.

AN ACT for closing certain accounts, and making appropriations for arrearages in the Indian Department.

*Be it enacted*, &c. That the sum of sixty one thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury, not otherwise appropriated; for arrearages in the Indian Department, the same to be applied to the payment of balances on accounts presented and settled by the proper accounting officer, and now actually due, which accrued previous to the first day of January, one thousand eight hundred and twenty-nine, and to no other purpose.

SEC. 2. *And be it further enacted*, That for the purpose of settling and closing the accounts in the office of the Second Auditor, relating to Indian affairs, prior to the date of January, one thousand eight hundred and twenty-nine, the President of the United States is hereby authorized to direct transfers to be made from such balances of moneys heretofore appropriated to carry into effect certain Indian treaties as are no longer required for their

several objects, to the credit of certain other heads of Indian expenditure, under which balances accruing previously to the above date, remain due to certain individuals, and appear upon the books of the Second Auditor; also, to direct similar transfers to be made to and from the several specific heads of contingencies of the Indian Department, pay of agents, sub-agents, and presents to Indians; and, also, of the sum of five thousand and fourteen dollars and fifteen cents from the head of subsistence of the army, to the head of Indian expenditure, under which that amount was actually applied and expended: *Provided, always*, That no such transfer shall be made unless it satisfactorily appear that the specific expenditure was actually made for the service of Indian affairs, in good faith, by an authorized agent of the Government, and before the date aforesaid, and that the balances from which such transfers are authorized to be made are not necessary for the specific purpose of their original appropriation.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and is hereby, authorized to pay to Mark and R. H. Bean, of Arkansas, out of any money in the Treasury, not otherwise appropriated, eight thousand seven hundred and forty-eight dollars and twenty-five cents, for supplies furnished to the emigrant Creek Indians by direction of former Indian agents: *Provided*, That the said Beans shall first present sufficient evidence to the proper accounting officer, that credit was originally given by them to the Government of the United States, and that no part of the amount has been received by them, or satisfied, directly or indirectly, from the agent through whom they sold or contracted.

Approved, January 27, 1831.

AN ACT making appropriations for the payment of revolutionary and invalid pensioners.

*Be it enacted*, &c. That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for paying revolutionary and invalid pensioners, viz:

For payment of revolutionary pensioners, for the year one thousand eight hundred and thirty-one, one million eleven thousand one hundred dollars.

For paying the invalid pensioners, in the year one thousand eight hundred and thirty-one, two hundred and seventy-six thousand seven hundred and twenty dollars, in addition to an unexpended balance of appropriation for invalid pensioners of twenty-nine thousand two hundred and forty-six dollars ninety-five cents.

For pensions to widows and orphans, five thousand dollars.

Approved, January 27, 1831.

AN ACT to alter the times of holding the District Courts of the United States for the Districts of Maine and Illinois, and Northern District of Alabama.

*Be it enacted*, &c. That the terms of the District Court of the United States for the Northern District of Alabama, which are now directed by law to be held on the first Mondays of March and October in each year, shall hereafter be held on the second Mondays of April and October in each year; and that the term of the District Court of the United States for the District of Maine, which is now directed by law to be held on the second Tuesday of September in each year, shall hereafter be held on the first Tuesday of September in each year: and all processes which may have issued, or which shall hereafter issue, returnable to the next succeeding terms of the said District Courts as heretofore established, shall be held returnable, and be returned, to those terms to which they are severally changed by this act.

SEC. 2. *And be it further enacted*, That the terms of the District Court of the United States for the District

of Illinois, which are now directed by law to be held on the third Mondays of June and November in each year, shall hereafter be held on the first Mondays of May and December in each year; and all process which may have issued, or which shall hereafter issue, returnable to the next succeeding terms of the said District Court as heretofore established, shall be held returnable, and be returned, to those terms to which they are severally changed by this act.

Approved, January 27, 1831.

AN ACT to extend the time for entering certain donation claims to land in the Territory of Arkansas.

*Be it enacted, &c.* That the provisions of the eighth and ninth sections of the act of Congress, approved twenty-fourth day of May, one thousand eight hundred and twenty-eight, entitled "An act to aid the State of Ohio in extending the Miami Canal from Dayton to Lake Erie, and to grant a quantity of land to said State to aid in the construction of the Canals authorized by law, and for making donations of land to certain persons in Arkansas Territory," and the provisions of the act, entitled "An act restricting the location of certain land claims in the Territory of Arkansas, and for other purposes," approved sixth January, one thousand eight hundred and twenty-nine; and, also, the provisions of the act, entitled "An act to extend the time for locating certain donations in Arkansas," approved thirteenth January, one thousand eight hundred and thirty, be, and same are hereby, continued in force for the period of two years, from the twenty-fourth May, one thousand eight hundred and thirty-one: *Provided*, That nothing in this act, or the foregoing acts, shall be so construed as to prevent the President of the United States from bringing the said lands in Arkansas into market under the existing laws: and all claims to donations under the before recited act, which shall not have been presented and allowed by the proper authorities on or before the day which shall be fixed on by the President for the sale of said land, are hereby declared forfeited to the United States.

Approved, January 27, 1831.

AN ACT further supplemental to the act entitled "an act making further provision for settling the claims to land, in the Territory of Missouri," passed the thirtieth day of June, one thousand eight hundred and twelve.

*Be it enacted, &c.* That the United States do hereby relinquish to the inhabitants of the several towns or villages of Portage des Sioux, Saint Charles, Saint Louis, Saint Ferdinand, Villa a Robert, Carondelet, Saint Genevieve, New Madrid, New Bourbon, and Little Prairie, in the State of Missouri, all the right, title, and interest of the United States in and to the town or village lots, out lots, common field lots, and commons in, adjoining and belonging to, the said towns or villages, confirmed to them respectively, by the first section of the act of Congress, entitled "An act making further provision for settling the claims to land in the Territory of Missouri," passed the thirtieth day of June, one thousand eight hundred and twelve, to be held by the inhabitants of the said towns and villages, in full property, according to their several rights therein, to be regulated or disposed of for the use of the inhabitants, according to the laws of the State of Missouri.

Sec. 2. *And be it further enacted*, That the United States do hereby relinquish all their right, title, and interest, in and to the town and village lots, out lots, and common field lots, in the State of Missouri, reserved for the support of schools, in the respective towns and villages aforesaid, by the second section of the above recited act of Congress; and that the same shall be sold or disposed of, or regulated for the said purposes, in such

manner, as may be directed by the Legislature of said State.

Approved, January 27, 1831.

AN ACT for the relief of the legal representatives of Edward Moore, deceased.

*Be it enacted, &c.* That the Secretary of the Navy pay to the legal representatives of Edward Moore, deceased, the sum of one hundred and twenty dollars and forty-two cents, reported on the books of the Fourth Auditor of the Treasury to the said Edward Moore, for his share of the prize money for the British vessels captured on Lake Erie, during the late war; to be paid out of any money not otherwise appropriated.

Approved, January 27, 1831.

AN ACT making provision for the compensation of witnesses, and payment of other expenses attending the trial of the impeachment of James H. Peck.

*Be it enacted, &c.* That to every witness summoned to attend the trial of the impeachment of James H. Peck, there shall be allowed and paid, for every day's attendance upon the said trial, the sum of four dollars; and also for mileage, at the rate of twenty cents for every mile distance coming to the City of Washington, and returning to the usual place of residence of the witnesses respectively, computing the said distance by the usual route of travel by land.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Senate to ascertain and certify the amount due to each witness for attendance and mileage; which certificate shall be a sufficient voucher to entitle the witness to receive from the Treasury of the United States, the amount certified to be due, unless otherwise ordered by the Senate.

Sec. 3. *And be it further enacted*, That to the Marshal of the District of Columbia there shall be allowed and paid, for every day's attendance upon the Court of impeachment, during the said trial, the sum of five dollars, the amount to be ascertained and certified by the Secretary of the Senate; which certificate shall be a sufficient voucher to entitle the said Marshal to receive from the Treasury of the United States, the amount certified to be due, unless otherwise ordered by the Senate.

Sec. 4. *And be it further enacted*, That there shall be paid to the Marshal of the State of Missouri, the sum of fifty dollars; and to the Marshal of the Territory of Arkansas, the sum of five dollars, for serving, and returning subpoenas for witnesses, issued by order of the said Court.

Sec. 5. *And be it further enacted*, That the sum of thirteen thousand five hundred dollars be, and the same is hereby, appropriated to defray the expenses incurred under the provisions of this act, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 3, 1831.

AN ACT to authorize the construction of three Schooners for the naval service of the United States.

*Be it enacted, &c.* That the President of the United States be, and he is hereby, authorized to cause to be built, equipped, and employed in the naval service of the United States, three Schooners, not exceeding twelve guns each; and that the sum of eighty-seven thousand three hundred and sixty dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of carrying the foregoing provisions into effect.

Approved, February 3, 1831.

AN ACT to amend the several acts respecting copy rights.

*Be it enacted, &c.* That from and after the passing of this act, any person or persons, being a citizen or citi-

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zens of the United States, or resident therein, who shall be the author or authors of any book or books, map, chart, or musical composition, which may be now made or composed, and not printed and published, or shall hereafter be made or composed, or who shall invent, design, etch, engrave, work, or cause to be engraved, etched, or worked from his own design, any print or engraving, and the executors, administrators, or legal assigns of such person or persons, shall have the sole right and liberty of printing, re-printing, publishing, and vending such book or books, map, chart, musical composition, print, cut, or engraving, in whole or in part, for the term of twenty eight years from the time of recording the title thereof, in the manner hereinafter directed.

SEC. 2. *And be it further enacted*, That if, at the expiration of the aforesaid term of years, such author, inventor, designer, engraver, or any of them, where the work had been originally composed and made by more than one person, be still living, and a citizen or citizens of the United States, or resident therein, or being dead, shall have left a widow, or child, or children, either or all then living, the same exclusive right shall be continued to such author, designer, or engraver, or, if dead, then to such widow and child, or children, for the further term of fourteen years: *Provided*, That the title of the work so secured shall be a second time recorded, and all such other regulations as are herein required in regard to original copy-rights, be complied with in respect to such renewed copy-right, and that within six months before the expiration of the first term.

SEC. 3. *And be it further enacted*, That in all cases of renewal of copy-right under this act, such author or proprietor shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more of the newspapers printed in the United States, for the space of four weeks.

SEC. 4. *And be it further enacted*, That no person shall be entitled to the benefit of this act, unless he shall, before publication, deposit a printed copy of the title of such book, or books, map, chart, musical composition, print, cut, or engraving, in the clerk's office of the district court of the said district wherein the author or proprietor shall reside, and the clerk of such court is hereby directed and required to record the same thereof forthwith, in a book to be kept for that purpose, in the words following (giving a copy of the title, under the seal of the court, to the said author or proprietor, whenever he shall require the same:) "District of \_\_\_\_\_ to wit: Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_ Anno domini, \_\_\_\_\_

A. B. of the said District, hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may,) the title of which is in the words following, to wit: (here insert the title,) the right whereof he claims as author (or proprietor as the case may be;) in conformity with an act of Congress, entitled 'An act to amend the several acts respecting copy-rights.' C. D. Clerk of the District." For which record, the clerk shall be entitled to receive, from the person claiming such right as aforesaid, fifty cents; and the like sum for every copy, under seal, actually given to such person or his assigns. And the author or proprietor of any such book, map, chart, musical composition, print, cut, or engraving, shall, within three months from the publication of said book, map, chart, musical composition, print, cut, or engraving, deliver or cause to be delivered a copy of the same to the clerk of said district. And it shall be the duty of the clerk of each district court, at least once in every year, to transmit a certified list of all such records of copy-right, including the titles so recorded, and the dates of record, and also all the several copies of books or other works deposited in his office according to this act, to the Secretary of State, to be preserved in his office.

SEC. 5. *And be it further enacted*, That no person shall be entitled to the benefit of this act, unless he shall give information of copy-right being secured, by causing to be inserted, in the several copies of each and every edition published during the term secured on the title page, or the page immediately following, if it be a book, or, if a map, chart, musical composition, print, cut, or engraving, by causing to be impressed on the face thereof, or if a volume of maps, charts, music, or engravings, upon the title or frontispiece thereof, the following words, viz: "Entered according to act of Congress, in the year \_\_\_\_\_ by A. B., in the clerk's office of the district court of \_\_\_\_\_" (as the case may be.)

SEC. 6. *And be it further enacted*, That if any other person or persons, from and after the recording the title of any book or books, according to this act, shall, within the term or terms herein limited, print, publish, or import, or cause to be printed, published, or imported, any copy of such book, or books, without the consent of the person legally entitled to the copy-right thereof, first had and obtained in writing, signed in presence of two or more credible witnesses, or shall, knowing the same to be so printed or imported, publish, sell, or expose to sale, or cause to be published, sold, or exposed to sale, any copy of such book without such consent in writing; then such offender shall forfeit every copy of such book to the person legally, at the time, entitled to the copy-right thereof; and shall also forfeit and pay fifty cents for every such sheet which may be found in his possession, either printed or printing, published, imported, or exposed to sale, contrary to the intent of this act, the one moiety thereof to such legal owner of the copy-right as aforesaid, and the other to the use of the United States, to be recovered by action of debt in any court having competent jurisdiction thereof.

SEC. 7. *And be it further enacted*, That, if any person or persons, after the recording the title of any print, or cut, or engraving, map, chart, or musical composition, according to the provisions of this act, shall, within the term or terms, limited by this act, engrave, etch, or work, sell, or copy, or cause to be engraved, etched, worked, or sold, or copied, either on the whole, or by varying, adding to, or diminishing the main design, with intent to evade the law, or shall print or import for sale, or cause to be printed or imported for sale, any such map, chart, musical composition, print, cut, or engraving, or any parts thereof, without the consent of the proprietor or proprietors of the copy-right thereof, first obtained in writing, signed in the presence of two credible witnesses; or, knowing the same to be so printed or imported without such consent, shall publish, sell, or expose to sale, or in any manner dispose of any such map, chart, musical composition, engraving, cut, or print, without such consent, as aforesaid; then such an offender or offenders shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut, or print, shall be copied, and also all and every sheet thereof so copied or printed, as aforesaid, to the proprietor or proprietors of the copy-right thereof; and shall further forfeit one dollar for every sheet of such map, chart, musical composition, print, cut, or engraving, which may be found in his or their possession, printed or published, or exposed to sale, contrary to the true intent and meaning of this act; the one moiety thereof to the proprietor or proprietors, and the other moiety to the use of the United States, to be recovered in any court having competent jurisdiction thereof.

SEC. 8. *And be it further enacted*, That nothing in this act shall be construed to extend to prohibit the importation or vending, printing, or publishing, of any map, chart, book, musical composition, print or engraving, written, composed, or made, by any person not being a citizen of the United States, nor resident within the jurisdiction thereof.

SEC. 9. *And be it further enacted*, That any person or persons, who shall print or publish any manuscript whatever without the consent of the author or legal proprietor first obtained as aforesaid, (if such author or proprietor be a citizen of the United States, or resident therein,) shall be liable to suffer and pay to the author or proprietor, all damages occasioned by such injury, to be recovered by a special action on the case founded upon this act, in any court having cognizance thereof: and the several courts of the United States empowered to grant injunctions to prevent the violation of the rights of authors and inventors are hereby empowered to grant injunctions, in like manner, according to the principles of equity, to restrain such publication of any manuscript as aforesaid.

SEC. 10. *And be it further enacted*, That, if any person or persons shall be sued or prosecuted, for any matter, act, or thing done under or by virtue of this act, he or they may plead the general issue, and give the special matter in evidence.

SEC. 11. *And be it further enacted*, That, if any person or persons, from and after the passing of this act, shall print, or publish any book, map, chart, musical composition, print, cut, or engraving, not having legally acquired the copy-right thereof, and shall insert or impress that the same hath been entered according to act of Congress, or words purporting the same, every person so offending shall forfeit and pay one hundred dollars; one moiety thereof to the person who shall sue for the same, and the other to the use of the United States, to be recovered by action of debt, in any court of record having cognizance thereof.

SEC. 12. *And be it further enacted*, That, in all recoveries under this act, either for damages, forfeitures, or penalties, full costs shall be allowed thereon, any thing in any former act to the contrary notwithstanding.

SEC. 13. *And be it further enacted*, That no action or prosecution shall be maintained, in any case of forfeiture or penalty under this act, unless the same shall have been commenced within two years after the cause shall have arisen.

SEC. 14. *And be it further enacted*, That the "Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned," passed May thirty-first, one thousand seven hundred and ninety, and the act supplementary thereto, passed April twenty-ninth, one thousand eight hundred and two, shall be, and the same are hereby, repealed: saving, always, such rights as may have been obtained in conformity to their provisions.

SEC. 15. *And be it further enacted*, That all and several the provisions of this act, intended for the protection and security of copy-rights, and providing remedies, penalties, and forfeitures, in case of violation thereof, shall be held and construed to extend to the benefit of the legal proprietor or proprietors of each and every copy-right heretofore obtained, according to law, during the term thereof, in the same manner as if such copy-right had been entered and secured according to the directions of this act.

SEC. 16. *And be it further enacted*, That, whenever a copy-right has been heretofore obtained by an author or authors, inventor, designer, or engraver, of any book, map, chart, print, cut, or engraving, or by a proprietor of the same: if such author or authors, or either of them, such inventor, designer, or engraver, be living at the passage of this act, then such author or authors, or the survivor of them, such inventor, engraver, or designer, shall continue to have the same exclusive right to his book, chart, map, print, cut, or engraving, with the benefit of each and all the provisions of this act, for the security thereof for such additional period of time as will, to-

gether with the time which shall have elapsed from the first entry of such copy-right, make up the term of twenty-eight years, with the same right to his widow, child, or children, to renew the copy-right, at the expiration thereof, as is above provided in relation to copy-rights originally secured under this act. And if such author or authors, inventor, designer, or engraver, shall not be living at the passage of this act, then, his or their heirs, executors and administrators, shall be entitled to the like exclusive enjoyment of said copy-right, with the benefit of each and all the provisions of this act for the security thereof, for the period of twenty-eight years from the first entry of said copy-right, with the like privilege of renewal to the widow, child, or children, of author or authors, designer, inventor, or engraver, as is provided in relation to copy-rights originally secured under this act: *Provided*, that this act shall not extend to any copy-right heretofore secured, the term of which has already expired.

Approved, February 3, 1831.

AN ACT to amend the act for taking the Fifth Census.

*Be it enacted, &c.* That it shall and may be lawful for such of the assistants to the Marshals in the respective States and Territories, who have not, before the passage of this act, made their respective returns to such Marshals, under the act hereby amended, to complete their enumerations and make their returns under the said act, at any time before the first day of June, and for the Marshals of such States and Territories to make their returns to the Secretary of State at any time before the first day of August, one thousand eight hundred and thirty-one: *Provided*, that nothing herein contained shall be deemed to release such Marshals and assistants from the penalties contained in the act aforesaid, unless their returns shall be made within the time prescribed in this act: *And Provided further*, That no persons be included in the returns made under the present act, unless such persons shall have been inhabitants of the Districts for which such returns shall be made, on the first day of June, one thousand eight hundred and thirty.

SEC. 2. *And be it further enacted*, That the copies of returns and aggregate amounts directed to be filed by the Marshals with the clerks of the several District courts, and Supreme Courts of the Territories of the United States, shall be preserved by said clerks, and remain in their offices respectively; and so much of the Act to which this is an amendment, as requires that they shall be transmitted by said clerks to the Department of State, is hereby repealed.

SEC. 3. *And be it further enacted*, That it shall be the duty of the Secretary of State to note all the clerical errors in the returns of the Marshals and Assistants, whether in the additions, classification of inhabitants, or otherwise, and cause said notes to be printed with the aggregate returns of the Marshals, for the use of Congress.

Approved, February 3, 1831.

AN ACT for the relief of Matthias Roll and William Jackson.

*Be it enacted, &c.* That the Secretary of War cause to be issued to Matthias Roll, a private in the New Jersey line, in the Revolutionary War, a duplicate of military bounty land warrant, number one thousand one hundred and sixty-four, for one hundred acres of land, which is sued to Matthew, alias Matthias Roll, the twenty-third day of February, one thousand eight hundred and twenty-six, and which has been lost. And the said Matthias Roll shall have the said duplicate located and proceeded upon, in the same manner as if it were an original warrant; and the said original warrant is hereby declared null and void.



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Sec. 2. *And be it further enacted*, That the Secretary of War cause to be issued to William Jackson, a private in the Virginia line in the Revolutionary War, a duplicate of military bounty land warrant, number one thousand and thirty-six, for one hundred acres of land, which issued to said William Jackson on the thirteenth day of April, eighteen hundred and twenty-two, and which has been lost; and that said William Jackson shall have all the right under said duplicate that he could or might have under the original warrant; and the said original warrant is hereby declared null and void.

Approved: February 3, 1831.

AN ACT to amend the act entitled "An Act to quiet the titles of certain purchasers of lands between the lines of Ludlow and Roberts, in the State of Ohio," approved the twenty-sixth of May, in the year eighteen hundred and thirty.

*Be it enacted, &c.* That in addition to the sum appropriated by the act, entitled "An act to quiet the titles of certain purchasers of lands between the lines of Ludlow and Roberts, in the State of Ohio," approved the twenty-sixth of May, in the year eighteen hundred and thirty, the President of the United States be, and he is hereby, authorized to pay, out of any money in the Treasury not otherwise appropriated, to Philip Doddridge, the claimant of the Virginia military survey, numbered six thousand nine hundred and twenty eight, for seven hundred acres, being one of the Virginia military surveys, in the said act mentioned, lying between the lines of Ludlow and Roberts, in the State of Ohio, the sum of one thousand seven hundred and sixty-five dollars and sixty-eight cents, with interest at the rate of six per centum per annum, from the fifth day of March eighteen and twenty five, until paid; the said Philip having already conveyed to the United States the title to the said seven hundred acres of land, in the manner directed by the President of the United States, pursuant to the provisions of the act of Congress before recited. This act shall commence and be in force from the passing thereof.

Approved: February 12, 1831.

AN ACT to repeal the charges imposed on passports and clearances.

*Be it enacted, &c.* That, so much of the act of the first of June, one thousand seven hundred and ninety-six, entitled "An act providing passports for the ships and vessels of the United States," as imposes a charge of ten dollars for passports, and of four dollars for a clearance, to any ship or vessel bound on a voyage to any foreign country, be, and the same is hereby repealed, to take effect from and after the thirty-first day of March of the present year.

Approved: February 12, 1831.

AN ACT authorizing the Secretary of State to issue a patent to John Powell.

*Be it enacted, &c.* That the Secretary of State be, and he is hereby, authorized and required to issue letters patent, in the usual form, to John Powell, for his invention of a machine "for the purpose of separating the metal from gold ore, and the auriferous earth of alluvial deposits," upon his compliance with all the provisions of the existing laws, except so far as they require, on the part of aliens, a residence of two years in the United States.

Approved: February 12, 1831.

AN ACT authorizing the sale of a tract of land therein named.

*Be it enacted, &c.* That it shall be the duty of the President of the United States to offer at public sale, as

soon as may be, the south-west, north-west, and north-east quarters of section number twenty-five, of township number six, in range number one west, in the Cincinnati District, under the same rules and regulations that govern the sale of other public lands of the United States.

Approved, February 12, 1831.

AN ACT to amend the act granting "certain relinquished and unappropriated lands to the State of Alabama, for the purpose of improving the navigation of the Tennessee, Coosa, Cahawba, and Blackwarrior rivers," approved the twenty-third day of May, one thousand eight hundred and twenty-eight.

*Be it enacted, &c.* That it shall and may be lawful for the State of Alabama, by the Board of Canal Commissioners appointed by her for that purpose, to contract for and construct that part of the canal round the Muscle shoals, beginning at Campbell's ferry, and running up the river to Lamb's ferry, before they contract for, or complete that part of the said contemplated canal between Campbell's ferry and Florence; any thing in the act to which this is an amendment to the contrary notwithstanding.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Engineers of the United States who have this matter in charge, to furnish to said Board of Commissioners, as soon as practicable, a plan of that section of the Canal above contemplated first to be executed, connecting it with the river at or near to Campbell's ferry, and at the most eligible point at, or immediately below Lamb's ferry, on the cheapest practicable plan, in conformity with said original act, to be approved by the President of the United States.

Sec. 3. *And be it further enacted*, That the section of said Canal above Lamb's ferry, shall, by said Engineers, be so planned as to connect it with the deep water in the river at or above Lamb's ferry, and the section below Campbell's ferry, shall, in like manner, be connected with the deep water at or below said last mentioned ferry.

Approved, February 12, 1831.

AN ACT to authorize the transportation of merchandise by land or by water with the benefit of debenture.

*Be it enacted, &c.* That, from and after the passage of this act, all goods, wares, or merchandise imported into the United States, the duties on which have been paid, or secured to be paid, may be transported by land, or partly by land and partly by water, from the district into which they were imported to two other districts, and exported from either of them with the benefit of drawback: *Provided*, That all regulations and formalities now in force relating to the transportation of goods, wares, or merchandise, by land or by water, from the district into which they were imported to another district, for the benefit of drawback, and such other regulations as are prescribed under and by virtue of the act to which this is an addition, for the further transportation of such goods, wares, or merchandise, to other districts, shall be complied with: *And provided also*, That all the regulations and formalities now in force, respecting the exportation of goods, wares, and merchandise, for the benefit of drawback, shall be complied with, so far as may be consistent with the other provisions of the act to which this is an addition; and the Secretary of the Treasury shall be, and he is hereby, authorized to prescribe the form of the certificate to be used, and the oaths to be taken, on the transportation of such goods, wares, or merchandise, from the second district into which they may be so brought to the third district.

Approved: February 12, 1831.

AN ACT for the relief of William Smith, administrator of John Taylor, deceased.

*Be it enacted, &c.* That the Register of the Land Office at Cahawba be, and he is hereby authorized and directed to cancel the relinquishment made by the said William Smith, as administrator of John Taylor, deceased, on the thirty-first day of March, one thousand eight hundred and twenty five, of the west half of the south-west quarter of land, of section fifteen, in township ten, of range fourteen, in Butler county, in the State of Alabama, and which still remains unsold by the United States; and that he be authorized and directed to deliver over the certificate therefor to the said William; and the said William Smith is authorized and empowered to dispose of the same by assignment or otherwise, in as full and ample manner, to all intents and purposes, which he might or could have done before the relinquishment thereof; and that all the benefits and privileges given by this act to the said William Smith shall be given and extended to his assignee or assignees; and that the said William Smith, or his assignee or assignees, be allowed to hold the same, free from forfeiture for twelve months from the passage of this law: *Provided, nevertheless*, That the said William Smith shall, before he be entitled to the benefit of this act, pay over to the receiver of public moneys at Cahawba, the sum of ninety-nine dollars and ninety-eight and a quarter cents, that being the full amount of money which had been paid thereon previous to the relinquishment, and which has been transferred and credited on other lands purchased by his intestate in his lifetime.

Approved, February 12, 1831.

AN ACT to provide hereafter for the payment of six thousand dollars annually to the Seneca Indians, and for other purposes.

*Be it enacted, &c.* That the proceeds of the sum of one hundred thousand dollars, being the amount placed in the hands of the President of the United States, in trust, for the Seneca tribe of Indians, situated in the State of New York, be hereafter passed to the credit of the Indian appropriation fund: and that the Secretary of War be authorized to receive and pay over to the Seneca tribe of Indians, the sum of six thousand dollars, annually, in the way and manner, as heretofore practised, to be paid out of any money in the Treasury not otherwise appropriated.

Sec. 2. *And be it further enacted*, That the Secretary of War be authorized to receive and pay over to the Seneca tribe of Indians, the sum of two thousand six hundred and fourteen dollars and forty cents, out of any money in the Treasury, not otherwise appropriated, on account of the deficiency, by that amount, in the sum paid over to said Indians the last year.

Approved, February 19, 1831.

AN ACT to establish a Land Office in the Territory of Michigan, and for other purposes.

*Be it enacted, &c.* That all the public lands to which the Indian title has been extinguished, lying west of the meridian line, in the Territory of Michigan, shall constitute a new land district; and, for the sale of the public lands within the said district, there shall be a Land Office established at such place within the district, as the President of the United States may designate, who is hereby authorized to change the location of such office, whenever, in his opinion, the public interest may require it.

Sec. 2. *And be it further enacted*, That the Land Office now established at Monroe, shall be removed to the place designated for the location of this office, and the Register and Receiver of the Monroe Land Office, shall

superintend the sales of public lands within said district, who shall give security in the same manner, in the same sums, and whose compensation, emoluments, duties, and authorities, shall, in every respect, be the same, in relation to the lands which shall be disposed of at their office, as are or may be by law provided, in relation to the Registers and Receivers of Public Moneys in the several offices established for the sale of public lands.

Sec. 3. *And be it further enacted*, That all the public lands lying east of the Meridian line in the Territory aforesaid, which are not now embraced in the district of Detroit, be, and they are hereby, attached thereto; and it shall be the duty of the Register and Receiver of the Land Office in said district to deposit in the Land Office at Detroit all the records, books and papers, surveys, &c. which pertain to said Land Office at Monroe, which shall be kept by the Register and Receiver of the Land Office at Detroit, as a part of the records of said office.

Sec. 4. *And be it further enacted*, That all such public lands as shall have been offered for sale to the highest bidder at Monroe or Detroit, pursuant to any proclamation of the President of the United States, and which are embraced within the provisions of this act, and which lands remain unsold at the taking effect of this act, shall be subject to be entered and sold at private sale, by the Registers of the Land Offices to which they are hereby attached; and all provisions of law applicable to the public lands, to which this act applies, shall continue in full force and effect.

Sec. 5. *And be it further enacted*, That so much of the State of Illinois as lies between the Illinois and Mississippi rivers, bounded on the south by the base line, on the north by the northern boundary of that State, and on the extreme east by the third principal Meridian, be formed into a separate land district, the offices for which to be located where it will best accommodate purchasers and others, by the President; and a Register and Receiver shall be appointed at such time as the President of the United States shall deem proper.

Sec. 6. *And be it further enacted*, That another district be also formed in that State, on the north of the dividing line between townships sixteen and seventeen north of the base line, and east of the third principal Meridian, including all that part of the State to its northern boundary, the offices for which to be located by the President, where the public interest and the convenience of purchasers may require; and a Register and Receiver shall be appointed at such time as the President of the United States shall deem proper.

Sec. 7. *And be it further enacted*, That the Registers and Receivers shall reside, respectively, at the places where the Land Offices are located, give security in the same manner, in the same sums, and whose compensation, emoluments, and duties, and authority, in every respect, be the same, in relation to the lands which shall be disposed of at their offices, as may be by law provided in relation to the Registers and Receivers of public moneys in the several offices established for the disposal of the lands of the United States north-west of the river Ohio.

Sec. 8. *And be it further enacted*, That the said lands shall be disposed of in the same manner, and on the same terms and conditions, as are or may be provided by law for the sale of other lands of the United States: *Provided*, that no tracts of land excepted from sales by virtue of any former acts, shall be sold by virtue of this act.

Sec. 9. *And be it further enacted*, That all the lands to which the Indian title is extinguished, lying in that part of the State of Indiana which is east of the Lake Michigan, bordering upon the northern line of said State, and not attached to any land district, shall be, and the same are hereby, attached to the Fort Wayne District.

Approved, February 19, 1831.

21st Cong. 2d Sess.]

Laws of the United States.

**AN ACT** respecting the jurisdiction of certain District Courts.

*Be it enacted, &c.* That the District Courts of the United States for the northern District of New York, the western District of Pennsylvania, the District of Indiana, the District of Illinois, the District of Missouri, the District of Mississippi, the western District of Louisiana, the eastern District of Louisiana, the northern District of Alabama, and the southern District of Alabama, in addition to the ordinary jurisdiction and powers of a District Court shall within the limits of their respective Districts, have jurisdiction of all causes, except appeals and writs of error, which now are, or hereafter may by law be made, cognizable in a Circuit Court, and shall proceed therein in the same manner as a Circuit Court.

Approved, February 19, 1831.

**AN ACT** for the relief of William Burris, of Mississippi.

*Be it enacted, &c.* That William Burris be allowed to relinquish to the United States the east half of the quarter of section twenty-one, township three, range six, east, containing eighty acres entered by mistake, and to locate in lieu thereof, another half quarter section of land on any of the public lands of the United States, in the State of Mississippi, which has been offered at public sale and is now subject to entry at private sale.

Approved, February 19, 1831.

**AN ACT** to alter and amend "An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive."

*Be it enacted, &c.* That all persons entitled to lands, under a contract entered into on the eighth of January, eighteen hundred and nineteen, by the Secretary of the Treasury on the part of the United States, and Charles Villar, agent of the Pombebee Association, in pursuance of "An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive" approved on the third of March, eighteen hundred and seventeen, their heirs, devisees or assigns, who appear by the report of William L. Adams, special agent of the treasury, appointed in compliance with a resolution of the Senate, passed the twentieth of May, eighteen hundred and twenty-six, to have complied with the conditions of settlement and cultivation, as stipulated for in said contract or who shall hereafter make it appear to the satisfaction of the Secretary of the Treasury, that they have so complied, shall on paying into the Treasury one dollar and twenty-five cents the acre previous to the third of March, eighteen hundred and thirty-three receive a patent for the same.

*Sec. 2. And be it further enacted,* That all persons who became entitled to an allotment of land under said contract, their heirs, devisees, or assigns, who have failed to comply with the conditions of settlement and cultivation within the period required thereby, who at the time of the passage of this act shall be in the actual occupancy and cultivation of the same, shall, on paying into the Treasury one dollar and twenty-five cents the acre, previous to the third of March, eighteen hundred and thirty-three, receive a patent for the same.

*Sec. 3. And be it further enacted,* That the widow and children of any person who became entitled to an allotment of land under said contract, and died without performing the conditions required, shall, on paying into the Treasury, one dollar and twenty-five cents per acre, previous to the third of March, eighteen hundred and thirty-three, receive a patent for the same.

Approved: February 19, 1831.

**AN ACT** making appropriations for the completion and support of the Penitentiary in the District of Columbia, and for other purposes.

*Be it enacted, &c.* That, in addition to the unexpended balance of the appropriation of eighteen hundred and twenty-nine, now subject to the order of the Inspectors, there shall be, and hereby is, appropriated for the support of the said penitentiary, for the pay of its officers, the erection of additional buildings and improvements; for a wharf and sea wall; the purchase of materials, tools and implements of trade; the purchase of additional ground for the institution; the draining of the marsh east of the penitentiary, and other contingent expenses, the sum of thirty-six thousand three hundred and sixty dollars, to be paid out of any money in the Treasury not otherwise appropriated, and to be expended under the direction of the Board of Inspectors. *Provided,* That no more than two thousand dollars shall be drawn from the Treasury at any one time; and that no subsequent draft shall be made, until the amount previously drawn shall be duly accounted for by proper vouchers, regularly numbered, and an abstract of which shall accompany the same.

*Sec. 2. And be it further enacted,* That a majority of the inspectors shall certify upon said abstract, that the amount of moneys, as stated therein, have been actually and necessarily expended, and further, the affidavits of the warden and clerk, taken before a judge or justice of the peace, shall be endorsed on said abstract, stating that the moneys mentioned therein, and vouchers accompanying the same, have been actually paid to the persons, and for the purposes stated in said abstracts and vouchers.

*Sec. 3. And be it further enacted,* That the warden of the said penitentiary shall be appointed by the President, by and with the advice and consent of the Senate; and said warden shall appoint, and may remove, at his pleasure, all its subordinate officers, excepting the clerk, who shall be appointed and removed by the inspectors, or a majority of them.

*Sec. 4. And be it further enacted,* That the number of inspectors shall hereafter be reduced to three, a majority of whom shall constitute a board for the transaction of business, and shall receive an annual salary, payable quarterly, of two hundred and fifty dollars each.

*Sec. 5. And be it further enacted,* That, from and after the passage of this act, the salary of the warden of the said penitentiary shall be fifteen hundred dollars per annum.

Approved: February 25, 1831.

**AN ACT** to authorize the appointment of a sub-agent to the Winnebago Indians, on Rock river.

*Be it enacted, &c.* That an additional sub-agent be allowed to the Winnebago tribe of Indians, to reside on the waters of Rock river; and that the said agent shall be appointed as like officers are appointed, and receive the same amount of compensation.

Approved: February 25, 1831.

**AN ACT** to authorize the Secretary of the Navy to make compensation to the heirs of Taliaferro Livingston and Francis W. Armstrong, for the maintenance of fifteen Africans illegally imported into the United States.

*Be it enacted, &c.* That the Secretary of the Navy be authorized to pay, out of the sum appropriated for the suppression of the slave trade, the claim of the heirs of Taliaferro Livingston, late Marshal of the United States for the district of Alabama, for the maintenance of fifteen Africans, illegally imported into the United States

in the schooners *Louisa* and *Marino*, in one thousand eight hundred and eighteen: *Provided*, That satisfactory evidence of the reasonableness of the charges for said maintenance shall be furnished, and that the sums received by the said *Livingston* for the hire of said Africans, and for the labor performed for him, by them, if any, be accounted for and deducted.

Sec. 2. *And be it further enacted*, That the same allowance shall be made to *Francis W. Armstrong*, Marshal of the United States for the district of Alabama, for the time that the aforesaid fifteen Africans were kept by him, subject, in the settlement, to the same restrictions provided for in the first section of this act.

Approved: February 25, 1831.

AN ACT supplemental to an act, passed on the thirty-first March, one thousand eight hundred and thirty, entitled "An act for the relief of purchasers of public lands, and for the suppression of fraudulent practices at the public sales of lands of the United States."

*Be it enacted*, &c. That all purchasers, their heirs or assignees, of such of the public lands as were sold on a credit for a less price than fourteen dollars per acre, and on which a further credit has been taken under any of the laws passed for the relief of purchasers of public lands, and which lands have reverted to the United States on account of the balance due thereon not having been paid or discharged, agreeable to said relief laws, shall be entitled to patents, without further payment, in all instances where one dollar and twenty-five cents, or a greater sum, per acre, shall have been paid; or where payment to that amount shall not have been heretofore made, such purchasers, their heirs or assignees, shall have the right of pre-emption until the fourth day of July, one thousand eight hundred and thirty-one, by paying into the proper land office such sum, in addition to the amount heretofore paid, as will, together, amount to the minimum price of the lands of the United States at the time of such payment.

Sec. 2. *And be it further enacted*, That all such occupants of relinquished land as are contemplated and described in the second section of the above recited act, to which this is a supplement, as are in possession of land which was sold on credit, for a less sum than fourteen dollars per acre, shall have the right of pre-emption of the same lands, according to the legal subdivisions of sections, not exceeding the quantity of two quarter sections in contiguous tracts or contiguous to other lands held by such occupants respectively, until the fourth day of July, one thousand eight hundred and thirty-one, upon their paying into a proper office, for all land originally sold for a price not exceeding five dollars per acre, one dollar and twenty-five cents per acre; and for all lands which originally sold for more than five dollars, and not exceeding fourteen dollars per acre, the amount of the first instalment heretofore paid; such occupants first proving their possession, respectively in conformity to the provisions of the said act, to which this is a supplement, in the manner which has been prescribed by the Commissioner of the General Land Office, pursuant to the provisions thereof: *Provided, however*, That in all cases where proof of possession has been already made under said recited act, proof shall not again be required, unless the applicant choose to take other land than that to which such proof applies.

Sec. 3. *And be it further enacted* That the provisions of this act shall extend to all town property of which the Government has been proprietors, and not subsequently sold, when full payment has not been made: *Provided*, The original purchasers, or their assignees, pay into the proper land office, on or before the fourth of July, one thousand eight hundred and thirty-two, one half of the original purchase money, without interest.

Approved: February 25, 1831.

VOL. VII.—B.

AN ACT to incorporate Saint Vincent's Orphan Asylum, in the District of Columbia.

*Be it enacted*, &c. That *William Matthews*, *Matthew Deagle*, *Peter S. Shreiber*, *Thomas Carbery*, and *William Hickey*, and their successors in office, are hereby made, declared, and constituted a corporation and body politic, in law and in fact, to have continuance forever, under the name, style, and title of Saint Vincent's Orphan Asylum.

Sec. 2. *And be it further enacted*, That all and singular the lands, tenements, rents, legacies, annuities, rights, privileges, goods, and chattels, that may hereafter be given, granted, sold, devised, or bequeathed to Saint Vincent's Orphan Asylum, be, and they are hereby, vested in, and confirmed to, the said corporation; and that they may purchase, take, receive, and enjoy any lands, tenements, rents, annuities, rights, or privileges, or any goods, chattels, or other effects, of what kind or nature soever, which shall, or may hereafter be given, granted, sold, bequeathed, or devised unto them, or either of them, as Trustees of the said Asylum, by any person or persons, bodies politic or corporate, capable of making such grant, and to dispose of the same: *Provided*, The clear annual income of property to be acquired by said corporation shall, at no time, exceed the sum of five thousand dollars.

Sec. 3. *And be it further enacted*, That the said corporation, by the name and style aforesaid, be, and shall be hereafter, capable, in law and equity, to sue and be sued, to plead and be impleaded, within the District of Columbia and elsewhere, in as effectual a manner as other persons or corporations can sue or be sued; and that they shall adopt and use a common seal, and the same to use, alter, or exchange at pleasure; that they may appoint such officers as they shall deem necessary and proper, to assign them their duties, and regulate their compensation, and to remove any or all of them, and appoint others, as often as they shall think fit; and the said corporation shall make such laws as may be useful for the government and support, and for the general accomplishment of the objects of the said Asylum, as hereinafter mentioned, and not inconsistent with the laws of the United States, or the laws in force in the District of Columbia, for the time being, and the same to alter, amend, or abrogate at pleasure.

Sec. 4. *And be it further enacted*, That there shall be a meeting of the regular annual contributors to the support of Saint Vincent's Orphan Asylum, in the month of June, in each year, the hour, and day, and manner of giving notice for which, to be regulated by the by-laws; at which meeting, by those who from the by laws may be qualified to vote, nine female managers shall be elected, who shall appoint a first and second Directress, and may fill all vacancies in their own Board, until the next annual election; and the present managers may continue in office until the election in June next.

Sec. 5. *And be it further enacted*, That, with the consent and approbation of the parent, guardian, or friends, who may have the care of any male or female child, or where a child may be destitute of any friend or protector, the same may be received into Saint Vincent's Orphan Asylum, under such regulations as may be made by the by-laws, and there protected, instructed, and supported: and they shall not thereafter be withdrawn, or be at liberty themselves to withdraw from the Asylum, without the consent or dismissal of the corporation aforesaid, until, if a male, he shall have attained the age of twenty-one years, or, if a female, the age of eighteen years; but, up to the ages aforesaid respectively, they shall remain subject to the direction of the said corporation, unless they may, by the same, be exonerated from service previous to attaining those ages respectively; and the said corporation shall have the power to bind any child under their care, for the purpose of acquiring a know-

21st CONG. 2d Sess.]

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ledge of some useful trade, occupation or profession, under such conditions as may be determined by the by-laws, a copy of which conditions shall be delivered to, and they shall be binding on every person to whom any child may be so bound; that there may also be established, in connexion with Saint Vincent's Orphan's Asylum, schools for the daily attendance of children whose parents or guardians are or may be unable to pay for their instruction, or whose parents or guardians may contribute towards the support of the Asylum, under such regulations as may be made in the by-laws.

Sec. 6. *And be it further enacted*, That any vacancy which, from death, resignation, or otherwise, may happen in the Board of Trustees, shall be filled according to the mode to be prescribed in the by-laws; that they may hold such meetings as they shall think proper, and, to give form to their proceedings, may appoint such officers as they may deem necessary, and provide proper checks and responsibilities for the security of the property and funds of the corporation aforesaid; that they shall keep a journal of their proceedings, upon which the by-laws shall be recorded; and that they shall make report, at the annual meeting to be held in June, of the affairs and condition of the institution for the preceding year.

Sec. 7. *And be it further enacted*, That it may be lawful for Congress hereafter to alter, amend, modify, or repeal the foregoing act.

Approved: February 25, 1831.

AN ACT to provide for the adjustment of claims of persons entitled to indemnification under the convention between the United States and his Majesty the King of Denmark, of the twenty-eighth March, eighteen hundred and thirty, and for the distribution among such claimants, of the sums to be paid by the Danish Government to that of the United States, according to the stipulation of the said convention.

*Be it enacted, &c.* That the commissioners who are or may be appointed by the President of the United States, by and with the advice and consent of the Senate, in pursuance of the third article of the convention between the United States of America and his Majesty the King of Denmark, signed at Copenhagen the twenty-eighth day of March, one thousand eight hundred and thirty, shall meet at Washington City, in the District of Columbia, and, within the space of two years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all such claims as may be presented to them, and are provided for by the convention referred to, according to the merits of the several cases, and to justice, equity, and the law of nations, and according to the provisions of said convention.

Sec. 2. *And be it further enacted*, That all records, documents, or other papers, which now are in, or heretofore, during the continuance of this commission, may come into the possession of the Department of State, in relation to such claims, shall be delivered to the commission aforesaid.

Sec. 3. *And be it further enacted*, That the said commissioners, or a majority of them, with their Secretary, whose appointment is hereinafter provided for, shall convene in this city on the first Monday of April next, and shall proceed to execute the duties of their commission; and the Secretary of State shall be, and he is hereby, authorized and required forthwith after the passing of this act, to give notice of the said intended meeting, to be published in one or more public gazettes in the city of Washington, and in such other public papers, published elsewhere in the United States, as he may designate.

Sec. 4. *And be it further enacted*, That the said commissioners shall proceed immediately after their meeting

in the City of Washington, with all convenient despatch, to arrange and docket the several claims, and to consider the evidence which shall have been, or which may be offered by the respective claimants, allowing such further time for the production of such further evidence as may be required, and as they shall think reasonable and just; and they shall thereupon proceed to determine the said claims, and to award distribution of the sums to be received by the United States from the King of Denmark, under the stipulations of the Convention aforesaid, among the several claimants, according to their respective rights.

Sec. 5. *And be it further enacted*, That the said commissioners shall be, and they are hereby, authorized and empowered to make all needful rules and regulations, not contravening the laws of the land, the provisions of this act, or the provisions of the said Convention, for carrying their said commission into full and complete effect.

Sec. 6. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint a Secretary to the said commission.

Sec. 7. *And be it further enacted*, That the said commissioners and Secretary shall severally take an oath for the faithful performance of the duties of their respective offices.

Sec. 8. *And be it further enacted*, That the compensation of the respective officers for whose appointment provision is made by this act shall not exceed the following sums: to each of the said commissioners at the rate of three thousand dollars per annum, and to the Secretary of the Board at the rate of two thousand dollars per annum; and the President of the United States shall be, and he is hereby, authorized to make such provision for the contingent expenses of the said commission as shall appear to him reasonable and proper; and the said salaries and expenses shall be paid out of any money in the Treasury, not otherwise appropriated.

Sec. 9. *And be it further enacted*, That all moneys to be received from the Danish Government under the convention aforesaid, shall be paid into the Treasury of the United States, and shall constitute a fund for satisfying the awards of the commission provided for by this act.

Sec. 10. *And be it further enacted*, That all communications to or from the Secretary of the Board of Commissioners on the business of the commission, shall pass by mail free of postage.

Sec. 11. *And be it further enacted*, That as soon as the said commission shall be executed and completed, the records, documents, and all other papers in the possession of the commission or its officers shall be deposited in the office of the Secretary of State.

Approved: February 25, 1831.

AN ACT for the Punishment of Crimes in the District of Columbia.

Sec. 1. *Be it enacted, &c.* That, from and after the passage of this act, every person who shall be convicted, in any court in the District of Columbia, of any of the following offences, to wit: manslaughter, assault and battery with intent to kill, arson, rape, assault and battery with intent to commit a rape, burglary, robbery, horse stealing, mayhem, bigamy, perjury, or subornation of perjury, larceny, if the property stolen is of the value of five dollars or upwards, forgery, obtaining by false pretences any goods or chattels, money, bank note, promissory note, or any other instrument in writing for the payment or delivery of money or other valuable thing, or of keeping a faro bank or other common gaming table, petty larceny upon a second conviction, committed after the passage of this act, shall be sentenced to suffer punishment by imprisonment and labor, for the time and times hereinafter prescribed, in the penitentiary for the District of Columbia.



Sec. 2. *And be it further enacted*, That every person duly convicted of manslaughter, or of any assault and battery with intent to kill, shall be sentenced to suffer imprisonment and labor, for the first offence for a period not less than two nor more than eight years, for the second offence for a period not less than six nor more than fifteen years.

Sec. 3. *And be it further enacted*, That every person duly convicted of the crime of maliciously, wilfully, or fraudulently burning any dwelling house, or any other house, barn or stable adjoining thereto, or any store, barn or out-house, having goods, tobacco, hay or grain therein, although the same shall not be adjoining to any dwelling house; or of maliciously and wilfully burning any of the public buildings in the cities, towns, or counties of the District of Columbia, belonging to the United States, or the said cities, towns or counties; or any church, meeting-house, or other building for public worship, belonging to any voluntary society, or body corporate; or any college, academy, school-house, or library; or any ship or vessel, afloat or building; or as being accessory thereto, shall be sentenced to suffer imprisonment and labor, for a period of not less than one, nor more than ten years for the first offence, and not less than five nor more than twenty years for the second offence.

Sec. 4. *And be it further enacted*, That every free person duly convicted of rape, or as being accessory thereto before the fact, shall be sentenced to suffer imprisonment and labor, for the first offence for a period not less than ten nor more than thirty years, and for the second offence for and during the period of his natural life.

Sec. 5. *And be it further enacted*, That every free person duly convicted of an assault and battery, with intent to commit a rape, shall be punished for the first offence by undergoing confinement in the Penitentiary for a period not less than one nor more than five years, and for the second for a period not less than five nor more than fifteen years.

Sec. 6. *And be it further enacted*, That every person duly convicted of burglary, or as accessory thereto before the fact, or of robbery, or as accessory thereto before the fact, shall be sentenced to suffer imprisonment and labor for the first offence for a period not less than three nor more than seven years, and for the second offence for a period not less than five nor more than fifteen years.

Sec. 7. *And be it further enacted*, That every person convicted of horse stealing, mayhem, bigamy, or as being accessory to any of said crimes before the fact, shall be sentenced to suffer imprisonment and labor, for the first offence for a period not less than two nor more than seven years, and for the second offence for a period not less than five nor more than twelve years.

Sec. 8. *And be it further enacted*, That every person convicted of perjury, or subornation of perjury, shall be sentenced to suffer imprisonment and labor, for the first offence for a period not less than two nor more than ten years, and for the second offence for a period not less than five nor more than fifteen years.

Sec. 9. *And be it further enacted*, That every person convicted of feloniously stealing, taking, and carrying away, any goods or chattels, or other personal property, of the value of five dollars or upwards, or any bank note, promissory note, or any other instrument of writing, for the payment or delivery of money or other valuable thing, to the amount of five dollars or upwards, shall be sentenced to suffer imprisonment and labor, for the first offence for a period not less than one nor more than three years, and for the second offence for a period not less than three nor more than ten years.

Sec. 10. *And be it further enacted*, That every person convicted of receiving stolen goods, or any article the

stealing of which is made punishable by this act, to the value of five dollars or upwards, knowing them to have been stolen, or of being an accessory after the fact in any felony, shall be sentenced to suffer imprisonment and labor, for the first offence for a period not less than one nor more than five years, and for the second offence for a period not less than two nor more than ten years.

Sec. 11. *And be it further enacted*, That every person duly convicted of having falsely forged and counterfeited any gold or silver coin, which new is, or shall hereafter be, passing or in circulation within the District of Columbia; or of having falsely uttered, paid, or tendered in payment, any such counterfeit or forged coin, knowing the same to be forged and counterfeit; or of having aided, abetted or commanded the perpetration of either of the said offences; or of having falsely made, altered, forged, or counterfeited, or caused or procured to be falsely made, altered, forged, or counterfeited, or having willingly aided or assisted in falsely making, altering, forging, or counterfeiting, any paper, writing, or printed paper, to the prejudice of the right of any other person, body politic, or corporate, or voluntary association, with intent to defraud such person, body politic or corporate, or voluntary association, or of having passed, uttered, or published, or attempted to pass, utter or publish, as true, any such falsely made, altered, forged, or counterfeited paper, writing or printed paper, to the prejudice of the right of any other person, body politic or corporate, or voluntary association, knowing the same to be falsely made, altered, forged, or counterfeited, with intent to defraud such person, body politic or corporate, or voluntary association, shall be sentenced to suffer imprisonment and labor, for the first offence for a period not less than one year nor more than seven years, for the second offence, for a period not less than three nor more than ten years.

Sec. 12. *And be it further enacted*, That every person duly convicted of obtaining by false pretences any goods or chattels, money, bank note, promissory note, or any other instrument in writing, for the payment or delivery of money or other valuable thing, or of keeping a faro bank or gaming table, shall be sentenced to suffer imprisonment and labor, for a period not less than one year, nor more than five years: and every person, so offending, shall be a competent witness against every other person offending in the same transaction, and may be compelled to appear and give evidence in the same manner as other persons; but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying.

Sec. 13. *And be it further enacted*, That every person, upon a second conviction of larceny, where the property stolen is under the value of five dollars, or upon a second conviction of receiving stolen goods, knowing them to be stolen, where the property stolen is under the value of five dollars, shall be sentenced to suffer imprisonment and labor, for a period not less than one nor more than three years.

Sec. 14. *And be it further enacted*, That all capital felonies and crimes in the District of Columbia, not hereinafter specially provided for, except murder, treason, and piracy, shall hereafter be punished by imprisonment and labor in the Penitentiary of said District, for a period not less than seven nor more than twenty years.

Sec. 15. *And be it further enacted*, That every other felony, misdemeanor, or offence not provided for by this act, may and shall be punished as heretofore, except that, in all cases where whipping is part or the whole of the punishment, except, in the cases of slaves, the court shall substitute therefor imprisonment in the county jail, for a period not exceeding six months.

Sec. 16. *And be it further enacted*, That all definitions and descriptions of crimes; all fines, forfeitures, and incapacities, the restitution of property, or the payment of

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the value thereof; and every other matter not provided for in this act, be, and the same shall remain, as heretofore.

Sec. 17. *And be it further enacted*, That if any free person shall, in the said District, unlawfully, by force and violence, take and carry away, or cause to be taken and carried away, or shall, by fraud unlawfully seduce, or cause to be seduced, any free negro or mulatto, from any part of the said District to any other part of the said District, or to any other place, with design, or intention to sell or dispose of such negro or mulatto, or to cause him or her to be kept and detained as a slave for life, or servant for years, every such person so offending, his or her counsellors, aiders and abettors, shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and imprisonment and confinement to hard labor, in the Penitentiary, for any time not exceeding twelve years, according to the enormity of the offence.

Sec. 18. *And be it further enacted*, That nothing herein contained shall be construed to apply to slaves not residents of the District of Columbia; but such slaves shall, for all offences committed in said District, be punished agreeably to the laws as they now exist: *Provided* that this act shall not be construed to extend to slaves.

Approved, March 2, 1831.

AN ACT making appropriations for certain fortifications during the year one thousand eight hundred and thirty-one.

*Be it enacted*, &c. That the following sums be, and the same are hereby, appropriated, to be paid out of any unappropriated money in the Treasury for certain fortifications, viz:

For the preservation of George's island, Boston harbor, five thousand dollars.

For Fort Adams, Rhode Island, one hundred thousand dollars.

For the completion of fort Hamilton, New York, ten thousand dollars.

For repairing fort Columbus and castle Williams, New York, twenty-five thousand dollars.

For fort Monroe, Virginia, eighty thousand dollars.

For fort Calhoun, Virginia, eighty thousand dollars.

For the completion of fort Macon, seventy thousand dollars.

For the completion of the fort on Oak island, North Carolina, ninety five thousand dollars.

For fortifications at Charleston, South Carolina, forty-five thousand dollars.

For fortifications at Pensacola, Florida, one hundred thousand dollars.

For a fort at Mobile point, ninety thousand dollars.

For repairs of the battery at Bienvenu, Louisiana, three thousand four dollars.

For repairs of fort Wood, Louisiana, three thousand six hundred dollars.

For contingencies of fortifications, ten thousand dollars.

Approved, March 2, 1831.

AN ACT for the relief of certain importers of foreign merchandize.

*Be it enacted*, &c. That the Secretary of the Treasury shall be, and he is hereby, authorized to extend relief to any importer of foreign merchandise who may have been charged, under the provisions of the third section of the act, entitled "An act, for the more effectual collection of the duties on imports," passed the twenty-eighth day of May, one thousand eight hundred and thirty, with any duty in addition to the duties existing on such merchandise previous to the passage of said act, to the amount of such additional duty: *Provided*, said merchandise shall have been imported previous to the first

day of January last: *Provided*, also, That no person shall be entitled to the relief authorized to be given by this act, who, by the exercise of reasonable diligence, by himself, or his agents, factors, or correspondents, could have complied with the provisions of the said third section of said act; and the Secretary of the Treasury shall require and receive satisfactory evidence, from every person claiming the benefits of this act, that such diligence has been used, and that he has acted bona fide, and without any intent to violate or evade the provisions of said third section, before he shall grant the relief herein provided.

Approved, March 2, 1831.

AN ACT for the sale of the lands in the State of Illinois reserved for the use of the salt springs on the Vermillion river in that State.

*Be it enacted*, &c. That the State of Illinois shall be, and is hereby, authorized and empowered to cause to be sold and conveyed, in such manner and on such terms and conditions as the Legislature of said State has or may direct, the whole or any part of the lands reserved and set apart by the President of the United States, on the twenty-ninth day of March, eighteen hundred and twenty-five for the use of the salt works on the Vermillion river, in said State, and to apply the proceeds of such sale to such objects as the Legislature of said State has or may direct: *Provided*, said land shall not be sold for less than one dollar and twenty-five cents per acre.

Approved, March 2, 1831.

AN ACT for the relief of the citizens of Shawneetown.

*Be it enacted*, &c. That it shall and may be lawful for any purchaser, the assignee or legal representative of any purchaser, of any in or out-lot or lots in the town of Shawneetown in the State of Illinois, which lot or lots may have reverted for the non-payment of the purchase money, to re-enter the same lot or lots which may have so reverted, with the Register and Receiver of the district of Shawneetown, at any time within six months after the passage of this act, upon the following terms and conditions, to wit: by paying, in addition to what has heretofore been paid upon each in-lot, five dollars, and upon each out-lot, one dollar and twenty-five cents, per acre.

Sec. 2. *And be it further enacted*, That there be, and hereby is, granted to the Trustees of the town of Shawneetown, and their successors in office, for ever, in trust, to sell, or otherwise dispose of, for the purpose of graduating and paving the river bank within the limits of said town, all the vacant ground not necessary for streets, all the in or out-lots within the bounds of said town, which remain unsold, and all such as may remain unsold under the provisions of the first section of this act; this act to be carried into effect under the direction of the Commissioner of the General Land Office.

Approved, March 2, 1831.

AN ACT to authorize the Secretary of War to purchase an additional quantity of land for the fortifications at Fort Washington, upon the river Potomac.

*Be it enacted*, That the Secretary of War be, and he is hereby, authorized to purchase, in fee simple, from the executrix or trustees of William Dudley Digges, deceased, a certain piece of land required for the complete defence of the work at Fort Washington, on the Potomac, according to a survey of the same, deposited in the Topographical Bureau, at Washington: *Provided*, the said purchase can be effected for the release of the amount of a judgment against William Dudley Digges, deceased, for thirteen thousand three hundred and sixty-

nine dollars and eighty-seven cents, with interest from ninth June, one thousand eight hundred and nineteen, until paid, and costs, which the sureties of the late Robert Brent have assigned to the United States: *And provided, further*, That those who are legally authorized to convey the said land shall make and execute a good title thereto, in fee simple, with an acquittance of all claims against the United States, for the previous use or occupation of all or any portion of the premises, or for any alleged injury to an adjacent fishery, the right and title to which is to be released to the United States.

*Sec. 2. And be it further enacted*, That, upon the completion of the above purchase, on the terms and conditions specified, the proper officer of the United States shall be, and he hereby is, authorized to enter up satisfaction upon the judgment aforesaid.

Approved, March 2, 1831.

AN ACT for the relief Thomas Porter, of Indiana.

*Be it enacted, &c.* That the Secretary of War be, and he is hereby authorized and required to place the name of Thomas Porter on the list of invalid pensioners, and to pay him, at the rate of eight dollars per month, to commence on the first day of January, eighteen hundred and thirty-one.

Approved, March 2, 1831.

AN ACT for the relief of William Clower.

*Be it enacted, &c.* That the Postmaster General be, and he hereby is, authorized and directed to settle the claim of William Clower, for carrying the mail between Greenville and Fayette, Mississippi, upon principles of equity and justice.

Approved, March 2, 1831.

AN ACT for the relief of Simeon C. Whittier.

*Be it enacted, &c.* That there be paid to Simeon C. Whittier, of Hallowell, in the State of Maine, out of any money in the Treasury, not otherwise appropriated, the principal sum of three hundred and fifty-six dollars and fifty-three cents, with interest thereon, at the rate of six per centum per annum, from the twelfth day of July, one thousand eight hundred and twenty; and, also, the further principal sum of one hundred dollars, with interest thereon, at the rate of six per centum per annum, from the ninth day of September, one thousand eight hundred and twenty; and, also, the further principal sum of two hundred and one dollars and two cents, with interest thereon, at the rate of six per centum per annum, from the thirty-first day of May, one thousand eight hundred and twenty-eight; the said several sums having been illegally demanded and received by the United States of said Whittier, as one of the sureties of Daniel Evans, formerly a Collector of the Direct Taxes and Internal Duties for the fourth collection district in Massachusetts.

Approved: March 2, 1831.

AN ACT for the relief of Ebenezer Rollins.

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized to pay to Ebenezer Rollins, out of any money in the Treasury not otherwise appropriated, twelve hundred and forty-eight dollars and fifty cents, being the amount of drawback on twenty-nine hogheads, four barrels, and fifty-two bags of coffee, which were exported in the ship Rebecca Coffin, for Gotenburg, although the said ship did not proceed to sea until after the expiration of twelve months from the time of the entry of the said merchandise: *Provided*, That the said merchandise was shipped on board said vessel, and cleared at the custom-house, before the expiration of twelve months from the time of its entry, and that all the

other requirements of the law, to entitle it to debenture, have been complied with.

Approved: March 2, 1831.

AN ACT for the relief of the legal representatives of Daniel McIntire, deceased.

*Be it enacted, &c.* That the Secretary of War be directed to pay to the legal representatives of Daniel McIntire, late an invalid pensioner, deceased, the sum due said pensioner at his death.

Approved: March 2, 1831.

AN ACT for the relief of Joseph E. Sprague.

*Be it enacted, &c.* That the proper accounting officers of the Treasury pay to Joseph E. Sprague the sum of two hundred and forty-nine dollars, out of any money in the Treasury not otherwise appropriated, in full for services rendered by him as counsellor and attorney in attending to and taking depositions, in cases in which the United States were interested.

Approved: March 2, 1831.

AN ACT for the relief of John Daly, late of Canada.

*Be it enacted, &c.* That the Secretary of the Treasury be, and he hereby is, directed to pay to John Daly, late of New Ark, in the province of Upper Canada, out of any money in the Treasury not otherwise appropriated, the sum of five thousand dollars, being for supplies furnished and services rendered to the army of the United States in Canada, and for losses of property sustained by him on the Niagara frontier during the late war.

Approved: March 2, 1831.

AN ACT for the relief of Nathaniel Cheever, and others.

*Be it enacted, &c.* That there be paid, out of any money in the Treasury not otherwise appropriated, to Nathaniel Cheever, Ariel Mann, Benjamin Dearborn, Thomas B. Coolidge, and Stephen Tuckerman, who were formerly inhabitants of the town of Hallowell, in the State of Maine, each and severally, the principal sum of three hundred and fifty-six dollars and fifty-three cents, with interest thereon, at the rate of six per centum per annum, from the twelfth day of July, one thousand eight hundred and twenty; and also the further principal sum of one hundred dollars each, with interest thereon, at the rate of six per centum per annum, from the ninth day of September, one thousand eight hundred and twenty; the said several sums having been illegally demanded and received by the United States of each of the above-mentioned persons, as one of the sureties of Daniel Evans, formerly a collector of the direct taxes and internal duties for the fourth collection district in Massachusetts.

*Sec. 2. And be it further enacted*, That, if said Cheever, Mann, Dearborn, Coolidge, and Tuckerman, or any of them, have deceased, or shall de cease before the payment shall be made to each of them, respectively, as above provided, then said sums of three hundred and fifty-six dollars and fifty-three cents, and one hundred dollars, with interest as aforesaid, shall be paid to the executors or administrators of each of the said persons so deceased.

Approved: March 2, 1831.

AN ACT for the relief of Peters and Pond.

*Be it enacted, &c.* That the Secretary of the Treasury be, and he hereby is, directed to pay to Peters and Pond, merchants of Boston, the sum of seventeen thousand eight hundred and twenty-two dollars and forty-five cents, out of any money in the Treasury not otherwise appropriated; being the moiety paid into the Treasury of the United States on the sale of their schooner Anna and her

cargo, which had been seized and condemned for a violation of the revenue laws by the District Court of the United States for the district of Georgia, in the year one thousand eight hundred and fourteen, deducting therefrom the duties accruing on said moiety.

Approved, March 2, 1831.

#### AN ACT for the relief of Lucien Harper.

*Be it enacted, &c.* That there be paid, out of any money in the Treasury not otherwise appropriated, to Lucien Harper, the sum of fifteen dollars and sixty-six cents, being the specie value of a certificate issued by Francis Hopkinson, treasurer of loans, numbered two thousand one hundred and sixty, with interest on the said specie value, at six per centum per annum, from the twenty-seventh day of November, one thousand seven hundred and seventy-nine; which certificate was issued in the name of Captain George Wolsey, and of which the said Lucien Harper is now owner: *Provided*, That the said Lucien Harper shall first execute and deliver to the first Comptroller of the Treasury a bond in such sum and with such security as the said Comptroller shall direct and approve, to indemnify the United States from and against the lawful claim of any other person or persons for, or on account of, the said certificate.

Approved, March 2, 1831.

#### AN ACT for the relief of James Sprague.

*Be it enacted, &c.* That James Sprague be, and he is hereby, authorized to locate three hundred and twenty acres of land, by legal subdivisions, on any public land in the state of Ohio now offered for sale, at the minimum price, in satisfaction of an equal quantity of land heretofore located by the said James Sprague on the east half of the eighth section of the fifth township, in the twenty-second range, under the act of Congress of the twenty-third of April, one thousand eight hundred and twelve, from which the said James has been evicted by an older title; and the President of the United States is hereby authorized to issue to the said James Sprague a patent for the land so located, on his producing the certificate of the Register of the land office within whose district the location may be made.

Approved, March 2, 1831.

AN ACT to provide for the final settlement and adjustment of the various claims preferred by James Monroe against the United States.

*Be it enacted, &c.* That, for public services, losses, and sacrifices, the sum of thirty thousand dollars is hereby appropriated to be paid to James Monroe, immediately after the passing of this act, out of any money in the Treasury not otherwise appropriated, which shall be in full of all demands of the said James Monroe for claims aforesaid: *Provided*, The accounting officer of the Treasury Department shall, upon an examination of his accounts, believe so much is due to him upon the principles of equity and justice.

Approved, March 2, 1831.

AN ACT making appropriations for the support of Government for the year one thousand eight hundred and thirty-one.

*Be it enacted, &c.* That the following sums be, and the same are hereby, appropriated, to be paid out of any unappropriated money in the Treasury, viz:

For pay and mileage of the Members of Congress and Delegates, three hundred and seven thousand nine hundred and sixty eight dollars.

For pay of the Officers and Clerks of both Houses, thirty-four thousand three hundred dollars.

For stationary, fuel, printing, and all other incidental and contingent expenses of the Senate, twenty-nine thousand six hundred and eighty-five dollars.

For stationary, fuel, printing, and all other incidental and contingent expenses of the House of Representatives, one hundred thousand dollars. The said two sums last named to be applied to the payment of the ordinary expenditures of the Senate and House of Representatives, severally, and to no other purpose.

For salary of the principal and assistant Librarians, two thousand three hundred dollars.

For contingent expenses of the Library, and pay of messengers, eight hundred dollars.

For the purchase of books for the Library of Congress, five thousand dollars.

For compensation to the President and Vice President of the United States, the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Postmaster General, sixty thousand dollars.

For Clerks and messengers in the office of the Secretary of State, nineteen thousand four hundred dollars.

For Clerks, machinist, and messenger, in the Patent Office, five thousand four hundred dollars.

For incidental and contingent expenses of the Department of State, including the printing and packing the Laws, twenty thousand dollars.

For compiling, printing, and binding the biennial register to the thirtieth September, one thousand eight hundred and thirty-one, in pursuance of the resolution of Congress of twenty-seventh April, one thousand eight hundred and sixteen, one thousand dollars.

For storage of Laws and Documents, three hundred and forty dollars.

For contingent expenses of the Patent Office, to wit: books, parchment, stationary, and fuel, and including extra Clerk hire, one thousand five hundred and thirty dollars.

For repairs and improvements of grounds and buildings of the Patent Office, three hundred and sixty dollars.

For compensation of the superintendent and watchmen of the northeast executive building, eight hundred and fifty dollars.

For satisfying the claim of John Marshall, late superintendent of the War and Navy buildings, one hundred and thirty-seven dollars.

For contingent expenses of said building, including fuel, labor, oil, repairs of building, engines and buckets, and improvement of ground, three thousand three hundred and fifty dollars.

For compensation to the Clerks and messengers in the Office of the Secretary of the Treasury, fifteen thousand four hundred dollars.

For compensation to the First Comptroller of the Treasury, three thousand five hundred dollars.

For compensation to the clerks and messengers in the office of the First Comptroller, nineteen thousand one hundred dollars.

For compensation to the Second Comptroller of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the office of the Second Comptroller, ten thousand four hundred and fifty dollars.

For compensation to the First Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the office of the First Auditor, thirteen thousand nine hundred dollars.

For compensation to the Second Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the office of the Second Auditor sixteen thousand nine hundred dollars.

For compensation to the Third Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messengers in the office of the Third Auditor, twenty-one thousand nine hundred and fifty dollars.

For compensation to the Fourth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the office of the Fourth Auditor, seventeen thousand seven hundred and fifty dollars.

For compensation to the Fifth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the office of the Fifth Auditor, twelve thousand eight hundred dollars.

For compensation to the Treasurer of the United States, three thousand dollars.

For compensation to the clerks and messenger in the office of the Treasurer of the United States, six thousand seven hundred and fifty dollars.

For compensation to the Register of the Treasury, three thousand dollars.

For compensation to the clerks and messengers in the office of the Register of the Treasury, twenty four thousand two hundred dollars.

For compensation to the Commissioner of the General Land Office, three thousand dollars.

For compensation to the clerks and messengers in the office of the Commissioner of the General Land Office, twenty thousand five hundred dollars; and for temporary clerks, to enable the Commissioner to bring up the business of his office, five thousand dollars.

For the commutation of five years full pay to Mountjoy Bailey, two thousand four hundred dollars.

For compensation to the Solicitor of the Treasury, three thousand five hundred dollars.

For compensation to the clerks and messenger in the office of the Solicitor of the Treasury, three thousand nine hundred and fifty dollars.

For compensation to the Secretary to the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For the expenses of stationary, printing, and all other incidental and contingent expenses of the several offices of the Treasury Department, the following several sums, viz:

For the office of the Treasury, including advertising and extra copying, five thousand dollars.

For the office of the First Comptroller, one thousand dollars.

For the office of the Second Comptroller, one thousand dollars.

For the office of the First Auditor, eight hundred dollars.

For the office of the Second Auditor, eight hundred dollars.

For the office of the Third Auditor, one thousand dollars.

For the office of the Fourth Auditor, one thousand five hundred dollars.

For the office of the Fifth Auditor, one thousand dollars.

For the office of the Treasurer of the United States seven hundred dollars.

For the office of the Register of the Treasury, three thousand dollars.

For the Office of the Commissioner of the General Land Office, including compensation for maps required by resolution of the Senate of twenty third of February, one thousand eight hundred and twenty-three, nine thousand dollars.

For compensation for extra aid, during one thousand eight hundred and thirty, in the issuing military land

patents founded on Virginia military surveys,

and writing and recording patents for lands sold, four thousand dollars.

For the office of the Solicitor of the Treasury, including purchase of law books for that office, two thousand dollars.

For translations, and for transmitting passports and sea-letters, three hundred dollars.

For stating and printing the public accounts for the year one thousand eight hundred and thirty one, one thousand four hundred dollars.

For compensation of superintendent and watchmen of the southeast executive building, eight hundred and fifty dollars.

For contingent expenses of said building, including fuel, labor, oil, repairs of building, engines and buckets, and improvement of adjoining ground, three thousand three hundred and fifty dollars.

For compensation to the clerks and messengers in the office of the Secretary of War, twenty one thousand six hundred and fifty dollars.

For contingent expenses of the office of the Secretary of War, three thousand dollars.

For books, maps, and plans for the War Department, one thousand dollars.

For compensation to the clerks and messenger in the office of the Paymaster General, four thousand six hundred dollars.

For contingent expenses of said office, two hundred dollars.

For compensation to the clerks and messenger in the office of the Commissary General of Purchases, four thousand two hundred dollars.

For contingent expenses of said office eight hundred dollars.

For compensation to the clerks in the office of the Adjutant General, two thousand nine hundred and fifty dollars.

For contingent expenses of said office, one thousand dollars.

For compensation to the clerks in the office of the Commissary General of Subsistence, two thousand nine hundred and fifty dollars.

For contingent expenses of said office, including expenses of advertising, two thousand six hundred dollars.

For compensation to the clerks in the office of the Chief Engineer, two thousand nine hundred and fifty dollars.

For contingent expenses of said office, one thousand two hundred and seventy dollars.

For drawing instruments, repairing instruments, purchase and repair of books and maps, one thousand one hundred and ninety dollars.

For the service of a lithographer, and for materials and repairs for the lithographic press, six hundred and thirty six dollars.

For arrears of the same, one hundred and twenty dollars.

For compensation to the clerks in the Ordnance Office, two thousand nine hundred and fifty dollars.

For contingent expenses of said office, eight hundred dollars.

For compensation to the clerk in the office of the Surgeon General, eleven hundred and fifty dollars.

For contingent expenses of said office, two hundred and twenty dollars.

For compensation to the clerks in the office of the Quarter Master General, two thousand one hundred and fifty dollars.

For contingent expenses of said office, six hundred dollars.

For the salary of the superintendent and watchmen of the northwest executive building, eight hundred and fifty dollars.



For contingent expenses of said building, including fuel, labor, oil, repairs of building, and engines, and improvement of adjoining ground, three thousand three hundred and fifty dollars.

For compensation to the clerks and messengers in the office of the Secretary of the Navy, eleven thousand two hundred and fifty dollars.

For contingent expenses of said office, three thousand dollars.

For compensation to the Commissioners of the Navy Board ten thousand five hundred dollars.

For compensation to the Secretary of the Commissioners of the Navy Board, two thousand dollars.

For compensation to the clerks, draughtsman, and messenger, in the office of the Commissioners of the Navy Board, eight thousand four hundred and fifty dollars.

For contingent expenses of the office of the Commissioners of the Navy Board, one thousand eight hundred dollars.

For the salary of the superintendant of the southwest executive building, and the watchman, eight hundred and fifty dollars.

For contingent expenses of said building, including fuel, repairs of building, engines, and improvement of ground, three thousand three hundred and fifty dollars.

For compensation to the two Assistant Postmasters General, five thousand dollars.

For compensation to the clerks and messengers in the office of the Postmaster General, forty-one thousand one hundred dollars.

For contingent expenses of said office, seven thousand five hundred dollars.

For superintendency of the buildings, making up blanks and compensation to two watchmen and one laborer, sixteen hundred and forty dollars.

For compensation to the extra clerks employed in the Post Office Department, by the late Postmaster General from the first of January, one thousand eight hundred and twenty-eight, to the first of April, one thousand eight hundred and twenty-nine, four thousand one hundred and seventy-five dollars, twenty-seven cents.

For compensation to the temporary and extra clerks employed in the Post Office Department, since the first day of April, one thousand eight hundred and twenty-nine, to the thirty-first December, one thousand eight hundred and thirty, fifteen thousand eight hundred and sixty-nine dollars, eight cents.

For completing the new Post Office building, four hundred and eighty-four dollars, three cents.

For compensation to the Surveyor General in Ohio, Indiana, and Michigan, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, two thousand one hundred dollars.

For compensation to the Surveyor South of Tennessee, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, including two hundred dollars of arrears, one thousand nine hundred dollars.

For compensation to the Surveyor in Illinois, Missouri, and Arkansas, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, two thousand dollars.

For compensation to the Surveyor in Alabama, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, one thousand five hundred dollars.

For compensation to the Commissioner of the Public Buildings in Washington City, two thousand dollars.

For compensation to the officers and clerk of the Mint, nine thousand six hundred dollars.

For compensation to assistants in the several departments of the Mint, including extra clerk hire and laborers, fourteen thousand six hundred dollars.

For incidental and contingent expenses and repairs, cost of machinery, for allowance for wastage in gold and silver coinage, of the Mint, thirteen thousand five hundred and ninety dollars.

For compensation to the Governor, Judges, and Secretary of the Michigan Territory, seven thousand eight hundred dollars.

For contingent expenses of the Michigan Territory, three hundred and fifty dollars.

For compensation and mileage of the members of the Legislative Council, pay of the officers of the Council, fuel, stationary, and printing, and repairs of the legislative hall, including arrearages, eight thousand two hundred and ninety dollars.

For compensation to the Governor, Judges, and Secretary of the Arkansas Territory, including additional compensation to each Judge, to thirtieth June, one thousand eight hundred and thirty-one, nine thousand four hundred dollars.

For pay and mileage of the Legislative Council of said Territory, five thousand four hundred and ten dollars.

For contingent expenses of the Arkansas Territory, three hundred and fifty dollars.

For incidental expenses of the Legislature of Arkansas, by act of twenty-fourth May, one thousand eight hundred and twenty-eight, seven hundred and twenty dollars.

For compensation to the Governor, Judges, and Secretary of the Florida Territory, including additional compensation for the Judges for extra duty under the act of twenty-third May, one thousand eight hundred and twenty-eight, fifteen thousand three hundred and forty-nine dollars.

For contingent expenses of the Florida Territory, three hundred and fifty dollars.

For compensation and mileage of the members of the Legislative Council of Florida, pay of officers and servants of the Council, fuel, stationary, printing and distribution of the laws; including two hundred and forty-eight dollars for arrears, seven thousand six hundred and forty dollars.

For compensation to the Chief Justice, the associate Judges and district judges of the United States, including arrearages arising from increased salaries of certain district Judges under the act of May twenty-ninth, one thousand eight hundred and thirty, eighty-seven hundred and twenty dollars, eighteen cents.

For the salaries of Chief Justice and associate Judges of the District of Columbia, and of the Judges of the Orphans' Courts of the said District, nine thousand five hundred dollars.

For compensation to William Cranch, Chief Justice of the Circuit Court for the District of Columbia, for preparing a code of civil and criminal jurisprudence, in compliance with an act of Congress, approved 29th April, one thousand eight hundred and sixteen, one thousand dollars.

For compensation to the Attorney General of the United States, four thousand dollars.

For compensation to the clerk in the office of the Attorney General, eight hundred dollars.

For contingencies to the office of the Attorney General, five hundred dollars.

For a messenger in said office, five hundred dollars.

For purchase of book for office of Attorney General, five hundred dollars.

For defraying the expenses already incurred in fitting up the office of the Attorney General, seven hundred and thirty-three dollars.

For compensation to the Reporter of the decisions of the Supreme Court, one thousand dollars.

For compensation to the District Attorneys and Marshals, as granted by law, including those in the several Territories, eleven thousand three hundred dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia; also, for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures, incurred in the year eighteen hundred and thirty one, and preceding years; and, likewise, for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offences committed against the United States, and for the safe keeping of prisoners, one hundred and ninety thousand dollars.

For the payment of sundry pensions granted by the late and present Governments, one thousand seven hundred and fifty dollars.

For the support and maintenance of light-houses, floating lights, beacons, buoys, and stakeages, including the purchase of oil, keepers' salaries, repairs and improvements, and contingent expenses, one hundred and ninety-three thousand one hundred and fifty-six dollars.

For building light-houses on Little Watt's island, Maryland; on Clay island, Maryland; at the entrance of Roanoke Sound, in North Carolina; at or near Choctaw Point, in Alabama; and near St. Mark's harbor, in Florida—twenty-nine thousand eight hundred dollars, being the amount of balances of moneys heretofore appropriated to the said objects; which said several balances are hereby re-appropriated to the several objects specifically.

For the salaries of Registers and Receivers of Land Offices where there are no sales, two thousand dollars.

For the salaries of two keepers of the public archives in Florida, one thousand dollars.

For stationary and books for the offices of Commissioners of Loans, five hundred dollars.

For allowance to Assistant Counsel and District Attorney, under the act supplementary to the several acts providing for the settlement of private land claims in Florida, dated twenty-third of May, one thousand eight hundred and twenty-eight, including contingencies, eight thousand dollars, including the unexpended balance of the last year's appropriation for the same objects.

For the third payment to Luigi Persico, for statues for the Capitol, four thousand dollars.

For alterations and improvements in the executive buildings, and painting the same, six thousand five hundred dollars.

For surveying the public lands, including the amount of arrearages due for the last year, one hundred and thirty thousand dollars.

For the salaries of the Ministers of the United States to Great Britain, France, Spain, Russia, the Netherlands, and Colombia, fifty four thousand dollars.

For the salaries of the Secretaries of Legation to the same places, twelve thousand dollars.

For the salaries of the Chargé des Affaires to Portugal, Denmark, Sweden, Brazil, Buenos Ayres, Chili, Peru, Mexico, and Guatemala, forty thousand five hundred dollars.

For outfit of the present Minister to Russia, nine thousand dollars.

For outfits of the Chargé des Affaires at Peru, Chili, Brazil, and Guatemala, eighteen thousand dollars.

For the outfit and salary of a Chargé des Affaires, for the salary of a Drogoman at Constantinople, and for the contingent expenses of the Legation, thirty-six thousand five hundred dollars: to wit—For the outfit of a Chargé des Affaires, four thousand five hundred dollars; for salary of a Chargé des Affaires, four thousand five hundred dollars; for salary of a Drogoman two thousand five hundred dollars; for the contingent expenses of the Legation, twenty-five thousand dollars.

For the contingent expenses of foreign intercourse; in addition to the sum of twenty-five thousand dollars hereinafter appropriated, the sum of fifteen thousand dollars.

For contingent expenses of all the missions abroad, twenty thousand dollars.

For the salaries of the agents for claims at London and Paris, four thousand dollars.

For the expenses of intercourse with the Barbary Powers, thirty thousand dollars.

For the relief and protection of American seamen, in foreign countries, twenty thousand dollars.

For the contingent expenses of foreign intercourse, twenty-five thousand dollars.

For carrying into effect the act of May twenty-ninth, one thousand eight hundred and thirty, for the settlement of the accounts of certain diplomatic functionaries, ten thousand five hundred dollars.

For the payment of claims for property lost, captured or destroyed, by the enemy, the balance of the appropriation made by the act of third March, one thousand eight hundred and twenty five, heretofore carried to the surplus fund, thirty-two thousand seventy-three dollars and eighty cents.

For the compensation due to James Parker for investigating the accounts of Robert Arnold, late Collector of Amboy, two hundred thirty nine dollars and sixty four cents.

For the designating and marking the boundary line between the State of Louisiana and the district of Arkansas, three thousand dollars; the same to be expended under the direction of the Secretary of State.

For preparing a revision of the former estimates of the population of the United States, one thousand dollars.

Approved: March 2, 1831.

AN ACT making additional appropriations for the improvement of certain harbors, and removing obstructions in the mouths of certain rivers.

*Be it enacted, &c.* That the following sums of money be, and the same are hereby appropriated, for carrying on and completing certain works heretofore commenced, to be paid out of any money in the Treasury not otherwise appropriated, viz:

For removing obstructions at the mouth of Huron river, Ohio, three thousand four hundred and eighty dollars.

For removing sand bar at or near the mouth of Black river, Ohio, nine thousand two hundred and seventy-five dollars.

For completing the improvement of Cleaveland harbor, Ohio, three thousand six hundred and seventy dollars.

For completing the removal of obstructions at the mouth of Grand river, Ohio, five thousand six hundred and eighty dollars.

For completing the removal of obstructions at the mouth of Ashtabula creek, Ohio, seven thousand and fifteen dollars.

For improving the navigation of Conneaut creek, Ohio, six thousand three hundred and seventy dollars.

For completing the improvement of the harbor of Presque Isle, Pennsylvania, one thousand seven hundred dollars.

For improving the navigation of Genesee river, New York, sixteen thousand six hundred and seventy dollars.

For removing obstructions at the mouth of Big Sodus bay, New York, seventeen thousand four hundred and fifty dollars.

For completing piers at Oswego, New York, two thousand eight hundred and twelve dollars and ninety-two cents.

For claim of contractors for losses by storms in eighteen hundred and twenty-nine, five hundred and nineteen dollars.

For balance due contractors for said piers, eighty-four dollars and ninety-two cents.

For securing the works of Oswego harbor, New York, by a stone pier-head and mole, eighteen thousand six hundred dollars.

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For completing the pier, at the mouth of Buffalo harbor, New York, twelve thousand nine hundred dollars.

For securing and completing the works at the harbor of Dunkirk, New York, six thousand four hundred dollars.

For further protection and preservation of the beach of Provincetown, Massachusetts, two thousand and fifty dollars.

For the repair and completion of the breakwater at the mouth of Merrimack river, Massachusetts, sixteen thousand dollars.

For completing repairs to piers at the entrance of Kennebec river, Maine, one thousand one hundred and seventy-five dollars.

For completing the sea wall for the preservation of Deer Island, Boston harbor, Massachusetts, twelve thousand three hundred and ninety dollars.

For repairing Plymouth beach, Massachusetts, two thousand eight hundred and twenty dollars.

For completing the breakwater at Hyannis harbor, Massachusetts, eight thousand four hundred dollars.

For removing the bar at the mouth of Nantucket harbor, Massachusetts, eight thousand two hundred and sixty-five dollars.

For improving the harbors of New Castle, Marcus Hook, Chester and Port Penn, in the Delaware river, four thousand dollars.

For improving Cape Fear river, below Wilmington, North Carolina, twenty-five thousand seven hundred and five dollars.

For carrying on the works for the improvements of Ocracoke inlet, North Carolina, seventeen thousand dollars.

For completing the removal of obstructions in the river and harbor of St. Mark's Florida, seven thousand four hundred and thirty dollars.

For completing the removal of obstructions in the Apalachicola river, Florida, eight thousand dollars.

For arrearage due Major Birch for survey of the Raft of Red river, Louisiana, one hundred and eighty-seven dollars and fifty cents.

For arrearage due the superintendent of the works at Black Rock harbor, New York, one thousand eight hundred dollars.

For arrearage due for materials delivered to the works at Dunkirk harbor, New York, seven hundred and two dollars fifty cents.

For carrying on the work of the Delaware breakwater, two hundred and eight thousand dollars.

Approved, March 2, 1831.

**AN ACT** making appropriations for the naval service for the year one thousand eight hundred and thirty-one.

*Be it enacted, &c.* That the following sums be, and they are hereby, appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated:

For pay and substance of the officers of the navy, and pay of seamen, one million two hundred and seventy-eight thousand six hundred and ninety-four dollars.

For pay of superintendents, naval constructors, and all the civil establishment of the several navy yards and stations, fifty-seven thousand six hundred and eighty dollars.

For provisions, one hundred seventy-three thousand four hundred and sixty-three dollars.

For repairs of vessels in ordinary, and the wear and tear of vessels in commission, six hundred and fifteen thousand four hundred dollars.

For medicines, surgical instruments, hospital stores, and other expenses on account of the sick, twenty-five thousand five hundred dollars.

For repairs and improvements of navy yards, two hundred and forty-four thousand dollars.

For the erection of a wharf at the navy yard at Pensacola, twenty-eight thousand two hundred and fifty dollars.

For defraying expenses that may accrue during the year one thousand eight hundred and thirty-one for the following purposes, viz:

For freight and transportation of materials and stores of every description; for wharfage and dockage, storage and rent, travelling expenses of officers, and transportation of seamen, house rent, chamber money, and fuel, and candles to officers, other than those attached to navy yards and stations, and for officers in sick quarters, where there is no hospital, and for funeral expenses; for commissions, clerk hire, and office rent, stationary and fuel to navy agents; for premiums and incidental expenses of recruiting; for apprehending deserters; for compensation to judge advocates; for per diem allowances for persons attending courts martial and courts of inquiry; and for officers engaged in extra service beyond the limits of their stations; for printing and stationary of every description, and for books, maps, charts, and mathematical and nautical instruments, chronometers, models and drawings, for purchase and repair of steam and fire engines, and for machinery; for purchase and maintenance of oxen and horses, and for carts, timber wheels, and workmen's tools of every description; for postage of letters on public service; for pilotage; for cabin furniture of vessels in commission; and for furniture of officers' houses at navy yards; for taxes on navy yards and public property; for assistance rendered to vessels in distress; for incidental labor at navy yards, not applicable to any other appropriation; for coal and other fuel for forges, foundaries, and steam engines; for candles, oil, and fuel for vessels in commission and in ordinary; for repairs of magazines and powder houses; for preparing moulds for ships to be built; and for no other object or purpose whatever, two hundred and fifty thousand dollars.

For contingent expenses for objects arising during the year one thousand eight hundred and thirty-one, and not herein before enumerated, five thousand dollars.

For pay of the officers, non-commissioned officers, and privates and for subsistence of officers of the marine corps, one hundred and nine thousand three hundred and seventy-three dollars; the pay, subsistence, emoluments, and allowances of the said officers, non-commissioned officers, and privates, to be the same as they were previously to the first of April, one thousand eight hundred and twenty-nine.

For subsistence for four hundred and sixty-one non-commissioned officers, musicians, and privates, and washerwomen serving on shore, twenty thousand one hundred and ninety-one dollars.

For clothing, twenty eight thousand seven hundred and sixty-five dollars.

For fuel, nine thousand and ninety-eight dollars.

For contingent expenses, fourteen thousand dollars.

For military stores, two thousand dollars.

For medicines, two thousand three hundred and sixty-nine dollars.

For carrying into effect the acts for the suppression of the slave trade, including the support in the United States, and for a term not exceeding six months after their arrival in Africa, of all persons removed from the United States under the said acts, ten thousand dollars.

The said several sums to be respectively applied to the several objects of appropriation abovementioned, in addition to the unexpended balances of appropriation for similar objects in the year one thousand eight hundred and thirty.

For the support of certain Africans brought into the port of New Orleans in the Spanish schooner Fenix, and now

in the charge of the Marshal of the eastern district of Louisiana, six thousand dollars, to be applied to their support under the direction of the Secretary of the Navy, at a rate not exceeding twenty cents per day.

To enable the President of the United States to allow compensation to Captain William B. Finch, for extra services and expenses in command of the sloop of war Vincennes, in the years one thousand eight hundred and twenty nine, and one thousand eight hundred and thirty, five thousand dollars; the accounts for such services and expenses to be settled under the direction of the President.

For compensation to Captain Benjamin Pendleton for moneys paid by him for cancelling the charter party, and outfit and demurrage of the brig Seraph, of Stonington, for his pay as a Lieutenant of the Navy, and for moneys paid by him to the ship keeper of the said vessel, four thousand seven hundred and sixty-three dollars.

For re-building and removing the monument erected in the navy yard at Washington by the officers of the American Navy, to the memory of those who fell in battle in the Tripolitan war, a sum not exceeding twenty-one hundred dollars, to be expended under the orders of the Secretary of the Navy.

Sec. 2. *And be it further enacted*, That the sum heretofore appropriated for the erection of a marine barracks at Philadelphia, and which has passed to the surplus fund, be, and the same is hereby, re-appropriated to the said object.

Approved, March 2, 1831.

AN ACT making appropriations for carrying on certain roads and works of Internal improvement, and for providing for surveys.

*Be it enacted*, &c. That the following sums be, and the same are hereby, appropriated to the several objects respectively herein named, to be applied during the year one thousand eight hundred and thirty-one, the same to be paid out of any money in the Treasury not otherwise appropriated, viz :

For continuing the road from Detroit towards Chicago, Michigan, ten thousand dollars.

For continuing the road from Detroit, to Fort Gratiot, Michigan, eight thousand dollars.

For continuing the road from Detroit to Saganaw Bay, eight thousand dollars

For arrearages due to T. S. Knapp, fourteen dollars and seventy five cents.

For defraying the expenses, incidental to making examinations and surveys under the act of the thirtieth day of April, one thousand eight hundred and twenty-four, twenty-five thousand dollars.

For improving the navigation of the Ohio and Mississippi rivers, to be expended under the existing laws, fifty thousand dollars.

That the sum of one hundred and fifty thousand dollars be, and the same is hereby appropriated to the improvement of the navigation of the Ohio and Mississippi rivers from Pittsburg to New Orleans, in removing the obstructions in the channels at the shoal places and ripples, and by such other means as may be deemed best for the deepening of the channels of the Ohio river, which said sum shall be expended under the direction of the President of the United States, by the superintendent appointed to execute said works of improvement; and the President is hereby authorized and required to take bond with approved security in fifty thousand dollars, conditioned for the faithful performance of the duties required of him under such instructions as may be given him for the improvement of the navigation of said rivers, and that an officer of engineers be associated with said superintendent, with authority to suspend the operation of any

work, or payment of any account, until the order of the President is received.

To open a road from Washington, in Arkansas Territory, to Jackson, in said Territory, fifteen thousand dollars.

Approved : March 2, 1831.

AN ACT making appropriations for carrying into effect certain Indian treaties.

*Be it enacted*, &c. That the following sums be, and the same are hereby, appropriated for the service of the year one thousand eight hundred and thirty-one :

For the annual support of a school for the education of Indian youth, as stipulated for by the sixth article of the treaty of the fifth of August, one thousand eight hundred and twenty-six, with the Chippewa tribe of Indians, one thousand dollars.

For the payment of the annuity of two thousand dollars, and also the sum of two thousand dollars for education, as stipulated for by the third article of the treaty of the sixteenth October, one thousand eight hundred and twenty-six, with the Potawattamies, the annual sum of four thousand dollars.

For the annual support of a blacksmith and miller, and for furnishing, annually, one hundred and sixty bushels of salt, under the same treaty, one thousand five hundred and twenty dollars.

For the payment of the permanent and limited annuities provided for by the second article of the treaty with the Potawattamies of the twentieth of September, one thousand eight hundred and twenty-eight, annually the sum of three thousand dollars.

For tobacco, iron, steel, education, annuity to the principal chief, and employment of laborers, by same article, one thousand nine hundred and sixty dollars.

For payment of permanent annuity under the fourth article of the treaty with the Miamies of the twenty-third of October, one thousand eight hundred and twenty-six, twenty-five thousand dollars.

For iron, steel, tobacco, and laborers, by same article, one thousand one hundred dollars.

For support of the poor and infirm, and for education, under the sixth article of said treaty, two thousand dollars.

For payment of the expenses incurred in the erection of buildings and improvements at the Dwight Mission establishment, by the society engaged in instructing Cherokee children, according to the fifth article of the treaty with the Cherokee Indians west of the Mississippi, of the sixth of May, one thousand eight hundred and twenty-eight, eleven thousand six hundred and fifteen dollars, the said society agreeing and stipulating to expend the amount so paid in the erection of other buildings and improvements for like purposes, in the country ceded to the Cherokees by the same treaty. For the payment in full of the value of improvements abandoned by the Cherokees of Arkansas who have emigrated from the country ceded by them by the treaty aforesaid, as assessed according to the provisions thereof, in addition to the balance which may remain of the sum of thirty-seven thousand dollars, appropriated by an act of March the second, one thousand eight hundred and twenty-nine, forty-five thousand eight hundred and nine dollars and thirty-nine cents : For payment for five hundred rifles delivered in one thousand eight hundred and twenty-nine for the emigrating Cherokees, including the cost of transportation, seven thousand dollars.

Approved, March 2, 1831.

AN ACT to carry into effect certain Indian Treaties.

*Be it enacted*, &c. That the following sums be, and the same are hereby, appropriated to pay the expenses incurred in negotiating, and for carrying into effect the treaty of peace and friendship, and the treaty of cession,

entered into at Prairie du Chien on the fifteenth day of July, eighteen hundred and thirty, with the Mississippi and Missouri bands of Sioux, the Sacs and Foxes, Winnebagoes and Menomones, Ottoes, Omahas, Missouries, and Ioways tribes of Indians, viz :

For presents, provisions, pay of commissioners and secretary, transportation, and all other expenses attending the negotiation of said treaties, twenty-four thousand two hundred and fourteen dollars and seventy-two cents.

For annuities stipulated for by the fourth article of the treaty of cession, annually, for ten years, viz : to the Sacs, three thousand dollars ; Foxes, three thousand dollars ; Sioux of Mississippi, two thousand dollars ; Yancton and Santie bands, three thousand dollars ; Omahas, two thousand five hundred dollars ; Ottoes and Missouries, two thousand five hundred dollars ; Ioways, two thousand five hundred dollars ; Sacs of Missouri River, five hundred dollars.

For support of a blacksmith, and for tools, as stipulated by the same article, annually, for ten years, viz : for the Sioux of Mississippi, one thousand dollars ; Yancton and Santie bands, one thousand dollars ; Omahas, one thousand dollars ; Ottoes and Missouries, one thousand dollars ; Ioways, three hundred dollars ; Sacs of Missouri River, seven hundred dollars.

For agricultural implements, as stipulated by same article, annually, for ten years, viz : for the Sioux of Mississippi, seven hundred dollars ; Yancton and Santie bands, four hundred dollars ; Omahas, five hundred dollars ; Ottoes and Missouries, five hundred dollars ; Ioways, six hundred dollars ; Sacs of Missouri River, two hundred dollars.

For transportation of annuities, tools, and agricultural implements, three thousand two hundred dollars.

For expenses of education, as stipulated by the fifth article, for ten years, to be applied in the discretion of the President of the United States, annually, three thousand dollars.

For expenses of running the lines as agreed by the seventh article of said treaty, nine thousand dollars.

Sec. 2. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated to carry into effect the supplementary article, concluded at Council Camp, on James' Fork of White River, Missouri, the twenty-fourth of September, eighteen hundred and twenty-nine, to the treaty with the Delawares on the third day of October, eighteen hundred and eighteen, viz :

For furnishing forty horses for the Delawares, one thousand six hundred dollars.

For expense of six wagons and ox teams to assist them in removing, one thousand six hundred and twenty dollars.

For expense of farming utensils, and tools for building houses, four thousand dollars.

For provisions on their journey, and one year after their removal to their new country, forty-five thousand dollars.

For building a grist and saw mill, three thousand dollars.

For the payment of the permanent annuity to the Delawares, one thousand dollars.

For expenses of surveying the lines of the land assigned to the Delawares by said article, four thousand one hundred and nine dollars and eighty-one cents.

Sec. 3. *And be it further enacted*, That the aforesaid sums of money be paid out of any money in the Treasury not otherwise appropriated.

Sec. 4. *And be it further enacted*, That for carrying into effect the treaty with the Choctaw tribe of Indians, concluded at Dancing Rabbit on the fifteenth day of September, one thousand eight hundred and thirty, the sum of eighty thousand two hundred and forty-eight dollars are hereby appropriated, to wit :

For salaries to chiefs and others, and suits of clothes and broadswords for ninety-nine captains as stipulated by fifteenth article, nine thousand five hundred and ninety-three dollars.

For expenses in fulfilling the sixteenth article in relation to cattle, twelve thousand five hundred dollars.

For education as stipulated by the twentieth article, ten thousand dollars.

For building council houses, houses for chiefs, and churches, as stipulated by the same article, ten thousand dollars.

For expenses of teachers, blacksmiths and shops, and a mill wright, by the same article, five thousand five hundred dollars.

For blankets, rifles, ammunition, axes, hoes, ploughs, spinning wheels, cards, looms, iron and steel, twenty-seven thousand six hundred and fifty-five dollars.

For transportation and contingencies, five thousand dollars : which said appropriation, to carry into effect the said treaty with the Choctaw tribe of Indians, shall be paid out of any money in the Treasury not otherwise appropriated.

Approved: March 2, 1831.

AN ACT making appropriations for the military service for the year one thousand eight hundred and thirty-one.

*Be it enacted, &c.* That the following sums be, and the same are hereby, appropriated, to be paid out of any unappropriated money in the Treasury, for the service of the military establishment for the year one thousand eight hundred and thirty-one, viz :

For pay of the army and subsistence of the officers, one-million one hundred and eight thousand six hundred and twelve dollars.

For forage for officers, forty-eight thousand six hundred and nineteen dollars.

For clothing for the servants of officers twenty-two thousand two hundred and ninety dollars.

For subsistence, exclusive of that of officers, in addition to an unexpended balance of seventy-five thousand dollars, two hundred and sixty-six thousand three hundred dollars.

For clothing of the army, camp equipage, cooking utensils, and hospital furniture, in addition to materials and clothing on hand, amounting to eighty-five thousand dollars, one hundred and thirteen thousand seven hundred and forty-seven dollars.

For the Medical and Hospital Department, thirty thousand dollars.

For various expenses in the Quartermaster's Department, viz : For fuel, forage, straw, stationary, blanks, repairing of officers' quarters, barracks, store-houses, and hospitals ; for erecting temporary cantonments and gun-houses ; for rent of quarters, store-houses, and land ; for postage of letters on public service ; for expenses of courts martial, including compensation of judge advocates, members, and witnesses ; for extra pay to soldiers employed on extra labor, under the act of March second, one thousand eight hundred and nineteen ; for expenses of expresses, escorts to paymasters, and other contingencies of the Quartermaster's Department, two hundred and twenty-six thousand eight hundred dollars.

For transportation of officer's baggage, and allowance for travel, in lieu of transportation, and for per diem allowance to officers on topographical duty fifty seven thousand dollars.

For transportation of clothing, subsistence, ordnance, and of lead from the mines, and for transportation of the army, and funds for pay of the army, including the several contingencies and items of expenditure at the several stations and garrisons, usually estimated under the head of transportation of the army, one hundred and ten thousand dollars.



For the completion of the barracks at Fort Winnebago, five thousand dollars, being the balance of an appropriation heretofore made for the erection of barracks at Green Bay, and not needed for that service, which balance is hereby transferred and appropriated to the purpose above named.

For the payment of certain mounted volunteers of the Territory of Arkansas, whilst in the service of the United States, in the year one thousand eight hundred and twenty-eight, the sum of five hundred and eighty dollars and eighty-three cents.

For the payment of the claim of the State of Missouri against the United States, for the services of her militia against the Indians, in the year one thousand eight hundred and twenty-nine, the sum of nine thousand and eighty-five dollars and fifty-four cents: *Provided*, That the Secretary of War shall, upon a full investigation, be satisfied that the United States are liable for the payment of the said militia, under the second paragraph of the tenth section of the first article of the Constitution of the United States.

For defraying the expenses of the Board of Visitors at West Point, fifteen hundred dollars.

For fuel, forage, stationary, printing, transportation, and postage for the Military Academy, eight thousand four hundred dollars.

For repairs and improvements of buildings and grounds at West Point three thousand four hundred dollars.

For pay of adjutant's clerk and Quartermaster's clerk, nine hundred dollars.

For increase and expenses of the library, fourteen hundred dollars.

For philosophical apparatus, two thousand dollars.

For models for fortifications, one thousand eight hundred dollars.

For models for drawing, for repairing instruments, for chemical and mineralogical apparatus, seven hundred and fifty dollars.

For miscellaneous items and incidental expenses of the Academy, one thousand six hundred dollars.

For fuel for the first quarter of the year one thousand eight hundred and thirty-two, two thousand three hundred dollars.

For contingencies of the army, ten thousand dollars.

For the national armories, three hundred and sixty thousand dollars.

For the armament of the fortifications, one hundred thousand dollars.

For the current expenses of the ordnance service, sixty-eight thousand dollars.

For arsenals, ninety-four thousand four hundred dollars.

For the recruiting service, thirty-five thousand six hundred and ninety-six dollars, in addition to an unexpended balance of four thousand dollars.

For contingent expenses of the recruiting service, fifteen thousand nine hundred and fifty-two dollars, in addition to an unexpended balance of five thousand dollars.

To: Thomas Fitzgerald, an invalid pensioner, two hundred and eighty-four dollars twenty-two cents, being arrearages of pension due him by law.

For arrearages prior to the first day of July, one thousand eight hundred and fifteen, five thousand dollars.

To enable the Secretary of War to pay for medals to be distributed amongst the Indian chiefs, three thousand dollars.

For completing the Marshall Road in Maine, and making bridges on the same, five thousand dollars.

For the further extension, and the completion of the walls and embankments for conveying water to the works at Harper's Ferry Armory, Virginia, seven thousand five hundred dollars.

Approved, March 2, 1831.

AN ACT for the relief of certain insolvent debtors of the United States.

*Be it enacted*, &c. That any person who was an insolvent debtor on or before the first day of January last, and who is indebted to the United States for any sum of money then due, which he is unable to pay, unless such person be indebted as the principal in an official bond, or for public money received by him, and not paid over or accounted for according to law, or for any fine, forfeiture, or penalty, incurred by the violation of any law of the United States, may make application in writing, under oath or affirmation, to the Secretary of the Treasury, for the purpose of obtaining a release or discharge of the said debt; which application shall state, as near as may be, the time when the applicant became insolvent, how soon thereafter he made known his insolvency to his creditors, the cause or causes, and the amount of such insolvency; and, also, all the estate, real and personal, which the said applicant owned at the time of his insolvency, and the manner in which such estate has been disposed of; and what estate, if any, he has since owned, and still owns.

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury is hereby directed to transmit to the District Attorney of the United States for the District or Territory within which the said applicant shall reside, a certificate copy of the said application, with such instructions as he may think proper; and it shall be the duty of the said District Attorney to lay the said copy of such application before the Commissioner or Commissioners of insolvency to be appointed by virtue of this act, and to appear and act before them as counsel in behalf of the United States.

Sec. 3. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized and directed to appoint any number of commissioners of insolvency he may think proper, not exceeding three in each judicial District or Territory of the United States, who, before they enter upon the duties of their appointment, shall severally take an oath or affirmation before one of the Justices of the Supreme Court, or before any Judge of a District Court of the United States, that they will faithfully execute the trust committed to them: and it shall be the duty of the said commissioner or commissioners to proceed publicly to examine the books, papers, and vouchers of each of the said applicants; and they, or either of them, shall also be authorized to examine each of the said applicants, or any other person or persons, upon oath or affirmation, touching the said application: and it shall be the duty of the said commissioner or commissioners to make a report, in writing, to the said Secretary, of the result of their examination in each case, therein particularly stating, as near as may be, the time when the applicant became insolvent, how soon thereafter he made known his insolvency to his creditors, the cause or causes, and the amount of such insolvency; and, also, all the estate, real and personal, which the said applicant owned at the time of his insolvency, and the manner in which such estate has been disposed of; and what estate, if any, he has since owned, and still owns.

Sec. 4. *And be it further enacted*, That the Secretary of the Treasury, after he shall have received the report of the said commissioner or commissioners, shall proceed to examine the circumstances of each case; and if it shall have been proved to his satisfaction that the said debtor is unable to pay the said debt or debts which he owes to the United States; that he hath done no act fraudulently to deprive the United States of their legal priority; that he has not been guilty of any fraud, nor made any conveyance of his estate, real or personal, in trust for himself, or with an intent to defraud the United States, or whereby to expect any benefit or advantage to himself or family; then and in that case, the said Secretary may compromise

with the said debtor, upon such terms and conditions as he may think reasonable and proper under all the circumstances of the case, and may execute a release to him or her for the amount of the said debt or debts which he or she may owe to the United States; which said release shall contain a recital that the foregoing particulars have been satisfactorily proved to the said Secretary: *Provided, however,* that the said release shall be rendered null and void, if it shall at any time be ascertained that the said insolvent debtor hath obtained the same upon false suggestions.

Sec. 5. *And be it further enacted,* That if the said insolvent debtor, or any other person, shall falsely take an oath or affirmation under this act, he or she shall be deemed guilty of perjury, and shall suffer the pains and penalties in that case provided.

Sec. 6. *And be it further enacted,* That each of the said commissioners of insolvency shall receive five dollars per day for each day they shall be actually employed in the performance of their duty under this act; which sum together with the actual expense incurred for office rent and all other contingencies, provided the same shall not, in the whole, exceed two dollars per day, shall be apportioned among the several applicants by the said commissioner or commissioners, under the direction of the Secretary of the Treasury, according to the time occupied in the investigation of each case; and each of the said applicants, immediately after the investigation of his or her case shall be completed, by the commissioner or commissioners, and before the report shall be transmitted to the said Secretary, shall pay his or her respective proportions of the same: and it shall be the duty of the said commissioner or commissioners to transmit with his or their report, in each case, a statement, under oath or affirmation, to the said Secretary, of the time actually occupied in the investigation thereof and the amount which they shall have received from the said applicant.

Sec. 7. *And be it further enacted,* That the compensation to be paid to the District Attorney of each district and territory shall be five dollars for each day he shall be actually employed under the provisions of this act.

Sec. 8. *And be it further enacted,* That it shall be the duty of the Secretary of the Treasury to report annually to Congress the names of the applicants under this act, and the nature and amount of the debt or debts due from each to the United States; and, also, the names of those who shall have obtained releases, together with the terms of compromise in each case.

Sec. 9. *And be it further enacted,* That the sum of five thousand dollars be, and the same is hereby appropriated, to be paid out of any money not otherwise appropriated, for the purpose of carrying into effect the provisions of this act.

Sec. 10. *And be it further enacted,* That this act shall continue in force for three years and no longer.

Approved: March 2, 1831.

AN ACT for the continuation of the Cumberland Road in the States of Ohio, Indiana, and Illinois.

*Be it enacted, &c.* That the sum of one hundred thousand dollars be, and the same is hereby appropriated, for the purpose of opening, grading, and making the Cumberland road, westwardly of Zanesville, in the State of Ohio; and that the sum of nine hundred and fifty dollars be, and the same is hereby appropriated for repairs on the said road during the year one thousand eight hundred and thirty; and also the further sum of two thousand seven hundred dollars, to be expended under the directions of the Secretary of War, in completing the payments to individuals for work heretofore done on the Cumberland road, east of Zanesville, in the State of Ohio, under the directions of the superintendent of said road, or so much of said sum as may be found necessary for that

purpose; also for the payment of arrearages for the survey of the said road from Zanesville to the capital of Missouri, two hundred and sixty-five dollars and eighty-five cents; and that the sum of seventy-five thousand dollars be, and the same is hereby appropriated, for the purpose of opening, grading, and bridging, the Cumberland Road, in the State of Indiana, including a bridge over White River, near Indianapolis, and progressing with the work to the eastern and western boundaries of said State; and that the sum of sixty-six thousand dollars be, and the same is hereby appropriated, for the purpose of opening, grading, and bridging the Cumberland Road, in the State of Illinois; which sums shall be paid out of any money not otherwise appropriated, and replaced out of the fund reserved for laying out and making roads under the direction of Congress, by the several acts passed for the admission of the States of Ohio, Indiana, and Illinois, into the Union, on an equal footing with the original States.

Sec. 2. *And be it further enacted,* That, for the immediate accomplishment of these objects, the superintendents heretofore appointed, or hereafter to be appointed, in the States of Ohio, Indiana, and Illinois, shall, under the direction of the President of the United States, separately superintend, in a faithful manner, such parts of said road as may be designated to each, and disburse the money, each giving bond and security as he shall direct, and shall receive such compensation as, in his opinion, shall be equitable and just, not exceeding, to each, that heretofore allowed by law to the superintendent of the Cumberland Road, in the State of Ohio.

Approved: March 2, 1831.

AN ACT making provision for a subscription to a compilation of Congressional Documents.

*Be it enacted, &c.* That the Clerk of the House of Representatives hereby is authorized and directed to subscribe for seven hundred and fifty copies of the compilation of Congressional documents proposed to be published by Gales & Seaton; *Provided,* That the documents shall be selected under the direction of the Secretary of the Senate and the Clerk of the House of Representatives: *And provided, also,* That the price paid for the printing of the said copies shall be at a rate not exceeding that of the price paid to the printer of Congress for printing the documents of the two Houses.

Approved, March 2, 1831.

AN ACT making appropriations for the Indian Department for the year one thousand eight hundred and thirty-one.

*Be it enacted, &c.* That the following sums be appropriated, to be paid out of any unappropriated money in the Treasury, for the Indian Department, for the year one thousand eight hundred and thirty-one, viz.:

For pay of the Superintendent of Indian Affairs at St. Louis and the several Indian agents, as authorized by law, twenty-nine thousand five hundred dollars.

For pay of sub-agents, as authorized by law, nineteen thousand five hundred dollars.

For presents to Indians, as authorized by the act of one thousand eight hundred and twelve, fifteen thousand dollars.

For pay of Indian interpreters and translators employed at the several superintendencies and agencies, twenty-one thousand five hundred and twenty-five dollars.

For pay of gun and blacksmiths, and their assistants, employed within the superintendencies and agencies, under the treaty provisions and the orders of the Secretary of War, eighteen thousand three hundred and forty dollars.

For iron, steel, coal, and other expenses attending the gun and blacksmith's shops, five thousand four hundred and twenty-six dollars.

For expense of transportation and distribution of Indian annuities, nine thousand nine hundred and fifty-nine dollars.

For expense of provisions for Indians at the distribution of annuities while on visits of business with the different superintendents and agents, and when assembled on business eleven thousand eight hundred and ninety dollars.

For contingencies of the Indian Department, twenty thousand dollars.

For expenses incurred in surveying the north-western boundary lines of the Miami and Potawatamic cessions by treaties of sixteenth October, one thousand eight hundred and twenty-six, and twenty-third October, one thousand eight hundred and twenty-six, two hundred and twenty-seven dollars.

For surveying and dividing the reservation granted to the half-breed Sacs and Foxes by the treaty of fourth August, one thousand eight hundred and twenty-four, two thousand dollars.

For the payment of sundry claims for Indian depredations, heretofore allowed at the Department of War, one thousand three hundred dollars.

For payments made for provisions and necessary assistance to Indians emigrating to the West, and to those tribes now settled on or near the Kansas river, west of the Missouri, in addition to the appropriation heretofore made for that object by act of ninth May, one thousand eight hundred and twenty-eight, three thousand five hundred and sixty-two dollars eighty-six cents.

For provisions and other assistance to Indians removing to the West from Ohio, Indiana, Illinois, and Missouri, required in one thousand eight hundred and thirty-one, five thousand dollars.

For building houses for Indian agents, sub-agents, blacksmith's shops in all the several agencies, seven thousand dollars.

Sec. 2. *And be it further enacted*, That the following sums, carried to the surplus fund, at the commencement of the present year, be, and the same are hereby appropriated, viz:

For additional expense at the Red river agency, per act of ninth May, one thousand eight hundred and twenty-eight, thirteen hundred dollars.

For extinguishment of the title of the Creeks to land in Georgia, per act twenty-sixth May, one thousand eight hundred and twenty-four, balance re-appropriated twenty-first March, eighteen hundred and twenty-eight, four thousand nine hundred and eighty-nine dollars and fifty-seven cents.

For claims against the Osages, by citizens of the United States, per act third March, eighteen hundred and nineteen, balance re-appropriated twenty-first March, eighteen hundred and twenty-eight, eight hundred and thirty-four dollars and fifty cents.

For extinguishment of the claims of the Cherokees to their lands in Georgia, per act ninth May, one thousand eight hundred and twenty-eight, forty-six thousand one hundred and four dollars and fifty cents.

For carrying into effect the treaty concluded with the Creeks, fifteenth November, eighteen hundred and twenty-seven, per act twenty-fourth May, eighteen hundred and twenty-eight, four thousand eight hundred and fifty-seven dollars.

For carrying into effect the treaty of sixth May, eighteen hundred and twenty-eight, with the Cherokee Indians, for their removal, &c. from Georgia, per act twenty-fourth May, one thousand eight hundred and twenty-eight, fifty-nine thousand one hundred and thirty-four dollars and nineteen cents.

For expense of Indian delegations to explore the country west of the Mississippi, per act twenty-fourth May, eighteen hundred and twenty-eight, one hundred and fifty-nine dollars.

For running the Indian boundary line in Florida, per act twenty-sixth May, eighteen hundred and twenty-four, one hundred and thirty-five dollars and forty-nine cents.

For purchase of Creek and Cherokee reservations, per act second March, eighteen hundred and twenty-three, twenty-one hundred dollars.

For expense of treating with the Choctaws and Chickasaws, for extinguishment of their title to lands within the limits of Mississippi, per act twentieth May, eighteen hundred and twenty-six, six hundred and fifty eight dollars.

Approved, March 2, 1831.

AN ACT to provide for the punishment of offences committed in cutting, destroying, or removing live oak and other timber, or trees reserved for naval purposes.

*Be it enacted*, &c. That if any person or persons shall cut, or cause or procure to be cut, or aid, assist, or be employed in cutting, or shall wantonly destroy, or cause or procure to be wantonly destroyed, or aid, assist, or be employed in wantonly destroying any live oak or red cedar tree or trees, or other timber standing, growing, or being on any lands of the United States, which, in pursuance of any law passed, or hereafter to be passed, shall have been reserved or purchased for the use of the United States, for supplying or furnishing therefrom, timber for the navy of the United States; or if any person or persons shall remove, or cause or procure to be removed, or aid, or assist, or be employed in removing from any such lands which shall have been reserved or purchased as aforesaid, any live oak or red cedar tree, or trees, or other timber, unless duly authorized so to do, by order, in writing, of a competent officer, and for the use of the navy of the United States; or if any person or persons shall cut, or cause or procure to be cut, or aid, or assist, or be employed in cutting any live oak or red cedar tree or trees, or other timber on, or shall remove, or cause or procure to be removed, or aid, or assist, or be employed in removing any live oak or red cedar trees, or other timber from any other lands of the United States, acquired, or hereafter to be acquired, with intent to export, dispose of, use, or employ the same in any manner whatsoever, other than for the use of the navy of the United States; every such person or persons so offending, on conviction thereof before any court having competent jurisdiction, shall, for every such offence, pay a fine not less than triple the value of the tree or trees, or timber so cut, destroyed, or removed, and shall be imprisoned not exceeding twelve months.

Sec. 2. *And be it further enacted*, That if the master, owner, or consignee of any ship or vessel shall, knowingly, take on board any timber cut on lands which shall have been reserved or purchased as aforesaid, without proper authority, and for the use of the navy of the United States; or shall take on board any live oak or red cedar timber cut on any other lands of the United States, with intent to transport the same to any port or place within the United States, or to export the same to any foreign country, the ship or vessel on board of which the same shall be taken, transported, or seized, shall, with her tackle, apparel, and furniture, be wholly forfeited to the United States; and the captain or master of such ship or vessel wherein the same shall have been exported to any foreign country against the provisions of this act, shall forfeit and pay to the United States a sum not exceeding one thousand dollars.

Sec. 3. *And be it further enacted*, That all penalties and forfeitures incurred under the provisions of this act shall be sued for, recovered and distributed, and accounted for, under the directions of the Secretary of the Navy, and shall be paid over, one half to the informer or informers, if any, or captors, where seized, and the

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other half to the Commissioners of the Navy Pension fund, for the use of the said fund; and the Commissioners of the said fund are hereby authorized to mitigate, in whole or in part, and on such terms and conditions as they shall deem proper, and order, in writing, any fine, penalty, or forfeiture incurred under this act.

Approved, March 2, 1831.

AN ACT granting a quantity of land to the Territory of Arkansas, for the erection of a public building at the Seat of Government of said Territory.

*Be it enacted, &c.* That the Legislature of the Territory of Arkansas be, and they are hereby authorized to select, or cause to be selected, a quantity of the unappropriated public lands in the Territory of Arkansas, not exceeding ten sections, and in portions not less than one quarter section, which is hereby granted to said Territory, for the purpose of raising a fund for the erection of a public building at Little Rock, the Seat of Government of said Territory.

Sec. 2. *And be it further enacted,* That the Legislature of said Territory be, and they are hereby authorized to adopt such measures for the sale of said tract of land, or any part thereof, at such times and manner, and convey the same by such deeds, as they shall deem expedient; and upon the presentation of such deeds of conveyance as shall be adopted by said Legislature, and given to the purchasers, to the Commissioner of the General Land Office, it shall be the duty of the President to issue patents to the purchasers, as in other cases.

Approved, March 2, 1831.

AN ACT confirming the selections heretofore made of lands for the construction of the Michigan Road in the State of Indiana.

*Be it enacted, &c.* That the selections and locations heretofore made by the State of Indiana, of the Michigan road lands, so far as they may remain unsold, be, and the same are hereby, sanctioned and confirmed; and that other public lands in Indiana, in lieu of those already sold, shall be selected under the same authority that the original selections and locations were made: *Provided,* that no selections or locations shall hereafter be made for the purpose aforesaid, until the authority of the State of Indiana shall cause to be made to the General Land Officer in accurate survey and plat of the said road throughout its entire line.

Sec. 2. *And be it further enacted,* That the Land Officers at Crawfordsville and Fort Wayne shall be duly notified, by the State authority, of the selections made in virtue of this act; after which, no sales thereof shall be made.

Approved, March 2, 1831.

AN ACT to extend the act, entitled "An act for the further extending the powers of the Judges of the Superior Court of the Territory of Arkansas, under the act of the twenty-sixth day of May, one thousand eight hundred and twenty-four, and for other purposes."

*Be it enacted, &c.* That the act, entitled "An act for the further extending the powers of the Judges of the Superior Court of the Territory of Arkansas, under the act of the twenty-sixth day of May, one thousand eight hundred and twenty-four, and for other purposes," approved on the eighth day of May, one thousand eight hundred and thirty, be and the same is hereby, extended and continued in force until the eighth day of May, one thousand eight hundred and thirty two.

Sec. 2. *And be it further enacted,* That each of the Judges of the Superior Court of the Territory of Arkansas shall, whilst in the discharge of the duties imposed by this act, be allowed at the rate of eight hundred dol-

lars per annum, in addition to their salary as Judges of the Superior Court for the said Territory, which shall be in full for their services, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, March 2, 1831.

AN ACT making appropriations for the public buildings, and for other purposes.

*Be it enacted, &c.* That the following sums be, and the same are hereby, respectively, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the following purposes, that is to say:

For completing the painting of the Capitol, three thousand seven hundred and sixty dollars.

For planting and improving the ground within the enclosure of the Capitol square, including the gardener's salary for one thousand eight hundred and thirty, and one thousand eight hundred and thirty-one, and pay of laborers, three thousand dollars.

To make good the deficiency in the estimates of the year one thousand eight hundred and twenty-nine, for finishing gates and fences, five thousand nine hundred and eighty-four dollars.

For lighting lamps in and round the square, and erecting twenty-four new lamps, one thousand five hundred dollars.

For alterations and repairs, five hundred dollars.

For new stoves for warming and ventilating the Hall of the House of Representatives, eight hundred dollars.

For purchasing Seneca Stone, flagging for the terrace and walks adjoining the Capitol, three thousand dollars.

For employing John Frazee to execute a bust of John Jay for the Supreme Court Room, four hundred dollars.

For painting the President's House, inside and out, three thousand four hundred and eighty-two dollars.

For planting and improving the grounds about the President's House, including the gardener's salary, four thousand dollars.

For alterations and repairs of the President's House, five hundred dollars.

For furniture, and repairs of furniture, five thousand dollars.

For compensation to Charles Bulfinch, late architect of the Capitol, for his extra services in planning and superintending the building of the Penitentiary at Washington, the Jail in Alexandria, the additional buildings for the Post Office and Patent Office, and for allowance for returning with his family to Boston, eleven hundred dollars.

Approved, March 2, 1831.

AN ACT for the relief of Mrs. Clarissa B. Harrison.

*Be it enacted, &c.* That the proper accounting officers of the Treasury be authorized and directed to allow the representatives of J. C. S. Harrison, late Receiver of Public Money at Vincennes, the following credits, to take date from the respective times the money was paid or the services rendered by said Receiver, viz: one thousand five hundred dollars for bringing up the books of Nathaniel Ewing, his predecessor; two thousand and fifteen dollars and four cents, paid out under a deed of trust from the bank of Vincennes, with commissions on the same, amounting to thirty-five dollars and fifty-one cents; and the said accounting officers are hereby authorized to settle and adjust any other claims of the late Receiver, arising from the discharge of his official duty, upon the principles of justice and equity, and to credit the amount thereof.

Sec. 2. *And be it further enacted,* That after the final adjustment of said accounts, the Secretary of the Treasu-

ry is hereby authorized to allow to the legal representatives and heirs of said receiver the period of eighteen years to pay the amount which shall be found due from said Receiver, without interest, upon such terms and conditions as to the Secretary of the Treasury shall be deemed reasonable and equitable, by taking a lien on the estate of the said Receiver, or such other security as, in his opinion, will secure the debt.

Approved March 2, 1831.

AN ACT for the relief of Richard Smith and William Pearse, the second, of Bristol, in Rhode Island.

*Be it enacted, &c.* That there shall be issued, under the direction of the Secretary of the Treasury, a register for the brig Hope, built in Holland, but now owned by Richard Smith and William Pearse, the second, citizens of the United States, and now lying at the port of Bristol, in Rhode Island, unseaworthy, whenever the said Smith and Pearse shall furnish the Secretary of the Treasury with satisfactory proof that the said brig has been repaired in the United States, and that the cost of repairing her, by her present owners, exceeds three-fourths of the original cost of building a vessel of the same tonnage in the United States.

Approved March 2, 1831.

AN ACT to authorize the Territory of Florida to open a canal through the public lands between Chipola River and Saint Andrew's Bay, in West Florida.

*Be it enacted, &c.* That the Territory of Florida be and is hereby, authorized to survey and mark, through the public lands of the United States, the route of a canal by which to connect the navigation of the river Chipola and Saint Andrew's Bay, in West Florida, and to cut the same through the public lands; and ninety feet of land on each side of said canal shall be reserved from sale, on the part of the United States, and the use thereof be forever vested in the Territory, or such company as shall be organized by them, for a canal, and for no other purpose whatever.

*Sec. 2. And be it further enacted,* That if the said Territory shall not survey, and direct by law, said canal to be opened, and furnish the Commissioner of the General Land Office a map thereof, within two years from and after the date of this act, or if the said canal be not completed suitably for navigation within five years thereafter, or if said land hereby granted shall ever cease to be used and occupied for the purpose of constructing and keeping in repair a canal suitable for navigation, the reservation and grant aforesaid shall be void and of no effect: *Provided,* That nothing in this act contained, or that shall be done in pursuance thereof, shall be deemed to imply any obligation, on the part of the United States, to appropriate money to defray the expense of surveying for opening said canal: *And provided likewise,* That the said canal, when completed by said Territory, or by an incorporated company under the authority of the same, shall be, and forever remain, a public highway for the use of the Government of the United States, free from any toll or charge whatever for any property of the United States, or persons in their service on public business passing through the same.

*Sec. 3. And be it further enacted,* That every section of land through which said canal route may pass, shall be, and the same is hereby reserved from sale, under the direction of the Government of the United States, until hereafter specially directed by law; and the said Territory, or company incorporated by them, are hereby authorized, without waste, to use any materials on the public lands adjacent to said canal that may be necessary to its construction.

*Sec. 4. And be it further enacted,* That the said Terri-

tory, or any incorporated company under their authority, be, and they are hereby authorized to open, through the public lands of the United States, a canal from Matanzas to Halifax River, in East Florida, upon the same conditions, restrictions, and limitations, in every respect, as are prescribed in the foregoing provisions of this act; and the same lands shall be reserved, in like manner, for the objects specified, and for no other.

Approved: March 2, 1831.

AN ACT to extend the Patent of John Adamson, for a further period of fourteen years.

*Be it enacted, &c.* That there be, and hereby is granted unto John Adamson, a citizen of the United States, his heirs, administrators, and assigns, for the term of fourteen years, from the 12th day of December, one thousand eight hundred and thirty, the full and exclusive right and liberty of making, constructing, using, and vending to others, to be used, his improvement, called a "Floating Dry Dock," a description of which is given in a schedule annexed to letters patent granted to the said John Adamson, for the same, on the thirteenth day of December, one thousand eight hundred and sixteen.

Approved: March 2, 1831.

AN ACT to authorize the State of Illinois to surrender a township of land granted to said State for a seminary of learning, and to locate other lands in lieu thereof.

*Be it enacted, &c.* That the State of Illinois be, and is hereby authorized to relinquish to the United States, township number five, north of range number one west, situate in the county of Payette, in said State, heretofore granted to the said State for the use of a seminary of learning, and to locate upon the public lands within said State, the sale of which is authorized by law, one entire township of land, or a quantity of land equal thereto, in tracts of not less than the quarter of a section.

Approved: March 2, 1831.

AN ACT to establish ports of delivery at Port Pontchartrain and Delaware City, and for other purposes.

*Be it enacted, &c.* That there be, and hereby is established at Port Pontchartrain, on Lake Pontchartrain, a port of delivery, that a Surveyor shall be appointed to reside at said port, that all ships and vessels bound to said port, shall, after proceeding thereto, and making report and entry at the port of New Orleans, within the time limited by law, be permitted to unlade their cargoes at the said port under the rules and regulations prescribed by law.

*Sec. 2. And be it further enacted,* That all vessels about to depart from the said port for foreign ports and places shall be permitted to clear out with their cargoes at the custom-house in the city of New Orleans, and depart under the same rules, regulations, and restrictions, and in every respect in the same manner, as vessels clearing out and departing for foreign ports and places from the said city of New Orleans by the way of the Mississippi River; and goods imported into the United States, and exported from said port, shall be entitled to the benefit of a drawback of the duties upon exportation to any foreign port or place, under the same provisions, regulations, restrictions and limitations, as if the said goods, wares, and merchandise had been exported directly from New Orleans, by way of the Mississippi River.

*Sec. 3. And be it further enacted,* That Delaware City, in the District of Delaware, shall be a port of delivery; and a Surveyor shall be appointed, who shall reside at said city.

*Sec. 4. And be it further enacted,* That a collection district be, and is hereby established in the Territory of Florida, which shall include all the ports, harbors, shores, and waters of the main land in Florida, and of the islands



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opposite and nearest thereto, from Saint Mary's to the south side of Saint John's, to be called the Saint John's District, and a port of entry shall be established at such point on the Saint John's River, as the President may direct, and a Collector shall be appointed, who shall give the same bond, perform the same duties, and be entitled to the same compensation and fees, as the collectors in other districts in Florida.

Sec. 5. *And be it further enacted*, That Prospect, in the District of Belfast, in the State of Maine, shall be a port of delivery; and that a Surveyor shall be appointed, who shall reside at that place.

Sec. 6. *And be it further enacted*, That the ports of Kennebunk, in the State of Maine, and Middletown, in the State of Connecticut, be, and they are hereby, made ports of entry for vessels arriving from the Cape of Good Hope, and from places beyond the same.

Approved: March 2, 1831.

AN ACT to authorize the executor of Stephen Tippet to locate a tract of land in the State of Louisiana.

*Be it enacted*, &c. That the legal representatives of Stephen Tippet be, and they are hereby authorized to locate and enter a tract of land of fifteen arpens front, by the ordinary depth of forty arpens, within the counties of Attakapas and Opelousas, in the State of Louisiana, under a grant of Baron de Carondelet of the twenty-first of September, one thousand seven hundred and ninety-six *Provided, however*, That the location authorized to be made under this act shall not be made so as to interfere with the claims of others.

Approved: March 2, 1831.

AN ACT for the relief of George Johnston.

*Be it enacted*, &c. That George Johnston be, and he hereby is, released from the effects of the judgment obtained against him by the United States, in the Circuit Court of the United States for the first judicial district, as one of the sureties of Benjamin F. Bourne, late a Purser in the Navy of the United States.

Approved: March 2, 1831.

AN ACT for the relief of J. N. Cardozo.

*Be it enacted*, &c. That the Secretary of the Treasury be, and he is hereby, authorized to make such deductions from the amount of the debt due by Jacob N. Cardozo to the United States, and such extension of the time for the payment thereof, as may, in his opinion, be consistent with equity and justice.

Approved: March 2, 1832.

AN ACT for the relief of Peter Cleer, of Maryland.

*Be it enacted*, &c. That the Secretary of War be authorized and directed to place the name of Peter Cleer on the roll of revolutionary pensioners, and to cause him to be paid at the rate of eight dollars per month, to commence on the nineteenth day of December one thousand eight hundred and twenty-five.

Approved: March 2, 1831.

AN ACT for the relief of Jonathan Crocker.

*Be it enacted*, &c. That the Secretary of War be, and he hereby is, directed to restore the name of Jonathan Crocker to the roll of revolutionary pensioners, and to cause him to be paid at the rate of eight dollars per month, from and after the third day of March one thousand eight hundred and twenty-nine.

Approved: March 2, 1831.

AN ACT for the relief of Hugh Barnes.

*Be it enacted*, &c. That the Secretary of War be, and he hereby is directed to cause to be paid to Hugh Barnes,

an invalid pensioner of the United States, an arrearage of pension withheld from him, in consequence of a mistake made by the examining surgeon in September, one thousand eight hundred and twenty-one, being in addition to what he has received, at the rate of ten dollars per month, from the fourth day of September, one thousand eight hundred and twenty-one, to the twenty-second day of September, one thousand eight hundred and twenty-four, when his pension of twenty dollars per month was restored to him.

Approved: March 2, 1831.

AN ACT for the relief of Henry Becker.

*Be it enacted*, &c. That the Secretary of War be authorized and directed to place Henry Becker on the list of invalid pensioners, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-six.

AN ACT confirming the claim of John B. Toulmin to a lot in the city of Mobile.

*Be it enacted*, &c. That John B. Toulmin be, and he is hereby, confirmed in his claim to a lot in the city of Mobile, bounded west by Saint Joseph street, north by Saint Anthony street, and on the east by Royal street, originally granted to John Linder: *Provided, however*, That nothing in this act contained shall be so construed as to prevent adverse claimants from asserting their rights in a court of justice.

Approved: March 2, 1831.

AN ACT to authorize the extension, construction, and use of a lateral branch of the Baltimore and Ohio Rail Road, into and within the District of Columbia.

Whereas, it is represented to this present Congress that the Baltimore and Ohio Rail Road Company, incorporated by an act of the General Assembly of Maryland, entitled "An Act to incorporate the Baltimore and Ohio Rail Road Company," passed the twenty-eighth day of February, eighteen hundred and twenty-seven, are desirous, under the powers which they claim to be vested in them by the provisions of the before-recited act, to construct a lateral branch from the said Baltimore and Ohio Rail Road to the District of Columbia. Therefore,

*Be it enacted*, &c. That the Baltimore and Ohio Rail Road Company, incorporated by the said act of the General Assembly of Maryland, shall be, and they are hereby authorized to extend into and within the District of Columbia a lateral rail road, such as the said company shall construct, or cause to be constructed, in a direction towards the said District, in connexion with the rail road which they have located, and are constructing, from the city of Baltimore to the Ohio river, in pursuance of their said act of incorporation: and the said Baltimore and Ohio Rail Road Company are hereby authorized to exercise the same powers, rights, and privileges, and shall be subject to the same restrictions, in the extension and construction of the said lateral rail road into and within the said District, as they may exercise, or are subject to, under and by virtue of their said charter or act of incorporation, in the extension and construction of any rail road within the State of Maryland, and shall be entitled to the same rights, compensation, benefits and immunities, in the use of the said road, and in regard thereto, as are provided in their said charter, except the right to construct any lateral rail road or roads within the said District from the said lateral branch or road hereby authorized; it being expressly understood that the said Baltimore and Ohio Rail Road Company shall have power only to construct from the said Baltimore and Ohio Rail Road one lateral road within the said District, to some point or terminus within the City and County of

Washington, to be determined in the manner hereinafter mentioned: *Provided, always, and be it enacted*, That before the Baltimore and Ohio Rail Road Company aforesaid shall proceed to construct any rail road which they may lay out or locate, on, through, or over any land or improvements, or to use, take for use any earth, stone, or other materials, on any land within the said District, they shall first obtain the assent of the owner of such land, improvements, or materials, or, if such owner shall be absent from said District, or shall refuse to give such assent on such terms as the said Company shall approve, or, because of infancy, coverture, insanity, or any other cause, shall be legally incapable of giving such assent, then it shall be lawful for the said company to apply to a justice of the peace of the County of Washington, who shall thereupon issue his warrant, under his hand and seal, directed to the Marshal of the said District, requiring him to summon a jury of twenty inhabitants of the said District, none of whom shall be interested, or related to any person interested, in the land or materials required for the construction of the said rail road, or a stockholder, or related to any stockholder, in the said company, to meet on the land, or near to the other property or materials so required, on a day named in such warrant, not less than three nor more than fifteen days after issuing the same, to proceed to value the damages which the owner or owners of any such land or other property will sustain by the use or occupation of the same, required by the said company; and the proceedings, duty, and authority of the said Marshal, in regard to such warrant and jury, and the oath or affirmation to be administered, and inquisition to be made and returned, shall be the same as are directed and authorized in regard to the Sheriff, by the fifteenth section of the said act of the General Assembly of the State of Maryland, incorporating the said Baltimore and Ohio Rail Road Company; and all the other proceedings in regard to such jury, and the estimating and valuation of damages, and the payment or tender of payment of any damages ascertained by such valuation and effect thereof, and of the view of any lands, or other property, or materials, as to giving the said company a right to use the same for the use or construction of any rail road within the said District, as hereby authorized, shall, in every case, and in every respect, be the same as is provided in and by the abovementioned act of incorporation in regard to the rail road thereby authorized to be constructed by said Company: *Provided, also, and be it enacted*, That whenever the said company, in the construction of a rail road into or within the said District, as authorized by this act, shall find it necessary to cross or intersect any established road, street or other way, it shall be the duty of the said company so to construct the said rail road, across such established road, street or other way, as not to impede the passage or transportation of persons or property along the same; and, where it shall be necessary to pass the said rail road through the land of any individual within the said District, it shall also be the duty of the said Company to provide for such individual proper wagon ways across the said rail road, from one part of his land to the other; but nothing herein contained shall be so construed as to authorize the entry by the said Company upon any lot or square, or upon any part of any lot or square, owned by the United States, or by any other body or bodies politic or corporate, or by any individual or individuals, within the limits of the City of Washington, for the purposes aforesaid, of locating or constructing the said road, or of excavating the same, or for the purpose of taking therefrom any material, or for any other purpose or uses whatsoever; but the said company, in passing into the District aforesaid, and constructing the said road within the same, shall enter the City of

Washington at such place, and shall pass along such public street or alley, to such point or terminus, within the said city, as the said company shall find best calculated to promote the objects of said road: *Provided*, That the level of said road within the said city shall conform to the present graduation of the streets, unless the said Corporation shall agree to a different level: *And provided, also*, That the said company shall not be permitted to take or terminate the said road west of the west side of seventh street west: *And provided, also*, That the said road shall not cross, or interfere with, or infringe on the existing Washington City Canal, or the Chesapeake and Ohio Canal, their waters or basins, or any other canal which may hereafter be projected and executed to connect the said Chesapeake and Ohio Canal with the aforesaid Washington City Canal in its whole extent to the Eastern Branch of the Potomac: *Provided, also*, The rate actually charged and received on all that part of said road within the District shall not exceed three cents a ton per mile for toll, and three cents a ton per mile for transportation, except as hereinafter specified, and shall be the same each way: *Provided, also*, That the privileges granted by this bill to the aforesaid rail road company shall be upon the condition that the said company shall charge the same rate of toll upon the same articles going east and west between Baltimore and Washington.

Sec. 2. *And be it further enacted*, That in addition to the charges authorized by said act of incorporation to be made by the Baltimore and Ohio Rail Road Company aforesaid, the said company shall be authorized, within the said District, to make any special contract with any corporation, company or individual, for the exclusive use of any car, or of any part of, or place in, any car, or other carriage, on any rail road constructed by the said company, for a specified time or distance, or both, or for the receipt and delivery, or the transportation of merchandise or other valuable articles, in boxes, parcels, or packages, weighing less than one-tenth of a ton, on such terms as may be mutually agreed on between the parties: *Provided*, That the charge for the transportation of merchandise or other valuable articles shall not exceed one cent per mile for any single box, parcel, or package weighing less than fifty pounds, and measuring in size, not more than two cubic feet; and for any heavier or larger box, parcel, or package, weighing less than one-tenth of a ton, not more than two cents per mile. And the said company, in all cases where the whole of the merchandise, produce, or other property, transported on their rail road within the said District, at any one time, belonging to the same person, co-partnership, or corporation, shall weigh less than a ton, and more than half a ton, shall be entitled to charge and receive, for the transportation thereof, at the same rate per mile as if it weighed a full ton; and if the same shall weigh less than half a ton, the charge per mile may be the same as for half a ton; always estimating a ton weight to be two thousand pounds.

Sec. 3. *And be it further enacted*, That the said company are, also, hereby empowered to make such special contract with any duly authorized officer or agent of the United States, for the conveyance of the mail, or the transportation of persons or property for the use of the United States, on any rail road which has been, or shall be constructed by the said Baltimore and Ohio Rail Road Company, on such terms as shall be approved of by the competent officer or authority; and in all such instances, to receive the compensation so agreed for, according to the terms of each contract.

Sec. 4. *And be it further enacted*, That the said rail-road company may charge and receive, for taking up and setting down any passenger or traveller within the District, conveyed a shorter distance than four miles, a sum not exceeding twelve and a half cents.

Sec. 5. *And be it further enacted*, That unless the said company shall commence the said lateral rail road within one year, and complete the same with at least one set of tracks, within four years from the passage of this act, then this act, and all the rights and privileges thereby granted, shall cease and determine.

Sec. 6. *And be it further enacted*, That nothing herein contained, shall be so construed as to prevent the Congress of the United States from granting the same or similar privileges to those hereby granted to any other company or companies, incorporated or to be incorporated by the States of Maryland or Virginia, or by Congress, or from authorizing, by any future law, such additional rail road or roads, in connexion with said road, so as to extend the same road, or to construct others connected therewith, to such parts of the District as from time to time may be required by the convenience of those parts of the District into which the said company are now restrained from carrying said road, or from enacting such rules and regulations, prescribing the speed of cars or carriages passing over said road, and other matters relating thereto, necessary for the security of the persons and property of the inhabitants of the District, in such manner as to the present or any future Congress shall seem expedient: *And provided, nevertheless*, That nothing herein contained shall be construed to give any rights or privileges to the said company, beyond the limits of the District of Columbia.

Sec. 7. *And be it further enacted*, That if the State of Maryland shall determine to construct a rail way between the city of Baltimore and the District of Columbia, or shall incorporate a company for the same purpose, then similar rights, privileges, immunities, and powers, conferred by this act on the Baltimore and Ohio Rail Road, be, and the same are hereby conferred on the State of Maryland, or any company which may be incorporated by it for the same purpose, within one year after the passage of this act.

Approved: March 2, 1831.

AN ACT to ascertain and mark the line between the State of Alabama and the Territory of Florida, and the northern boundary of the State of Illinois, and for other purposes.

*Be it enacted, &c.* That the President of the United States be, and he is hereby, authorized to cause to be run and marked the boundary line between the State of Alabama and the Territory of Florida, by the Surveyors General of Alabama and Florida, on the thirty-first degree of north latitude; and it shall be the duty of the Surveyor General of Florida to connect the public surveys on both sides with the line so run and marked.

Sec. 2. *And be it further enacted*, That patents shall be issued for such tracts of land as were sold and paid for at the land office at Tallahassee, in the Territory of Florida, as are found to be situate within the limits of the district of lands subject to sale at Sparta, in Alabama, agreeably to the terms of the act organizing that district; and the said entries and sales shall be as valid, in every respect, as if they had been made in the land district of Alabama.

Sec. 3. *And be it further enacted*, That the President of the United States is hereby authorized to cause the Surveyor General of the United States for the States of Illinois and Missouri, and the Territory of Arkansas, to act as a Commissioner on the part of the United States, whenever he shall be duly informed that the Government of the State of Illinois shall have appointed a Commissioner on its part, the two to form a board, to ascertain, survey, and mark the northern line of the State of Illinois, as defined in the act of Congress, entitled "An act to enable the people of the Illinois Territory to form a Constitution and State Government, &c." passed the

eighteenth of April, one thousand eight hundred and eighteen; and, in case of vacancy in said office of Commissioner, or of his being unable to act from any cause, the President is authorized to fill such vacancy by the appointment of some other qualified person, whenever it may be necessary, until the object of the commission shall be attained.

Sec. 4. *And be it further enacted*, That the said Board of Commissioners shall have power to employ the necessary surveyors and laborers, and shall meet at such time and place as may be agreed upon by the President of the United States and the Government of the State of Illinois, and proceed to ascertain, survey and mark the said Northern line of the State of Illinois, and report their proceedings to the President of the United States, and the Governor of the State of Illinois.

Sec. 5. *And be it further enacted*, That the President may allow to the said Commissioner of the United States, such compensation for his services as shall seem to him reasonable: *Provided*, it does not exceed the allowance made by the State of Illinois to the Commissioner on its part; and the said allowance, together with one half of the necessary expenses of said board, and the surveyors and laborers, and the allowance to be made to the Surveyors General of the State of Alabama and the Territory of Florida, and the necessary expenses incurred by them in running and marking said line between said State and Territory, shall be paid from the Treasury of the United States, out of any money not otherwise appropriated; and, to enable the President to carry this act into effect, there is hereby appropriated the sum of two thousand dollars.

Approved, March 2, 1831.

AN ACT allowing the duties on foreign merchandise imported into Pittsburg, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places.

*Be it enacted, &c.* That when any goods, wares, or merchandise, are to be imported from any foreign country, into Pittsburg, in the State of Pennsylvania, Wheeling, in the State of Virginia, Cincinnati, in the State of Ohio, Louisville, in the State of Kentucky, St. Louis, in the State of Missouri, Nashville, in the State of Tennessee, or into Natchez, in the State of Mississippi; the importer thereof shall deposite in the custody of the Surveyor of the place a schedule of the goods so intended to be imported, with an estimate of their cost at the place of exportation; whereupon the said Surveyor shall make an estimate of the amount of duties accruing on the same, and the importer or consignee shall give bond, with sufficient sureties, to be approved by the Surveyor, in double the amount of the duties so estimated, conditioned for the payment of the duties on such merchandise, ascertained as hereinafter directed; and the Surveyor shall forthwith notify the Collector at New Orleans of the same, by forwarding to him a copy of said bond and schedule.

Sec. 2. *And be it further enacted*, That the importer or his agent, is hereby authorized to enter any merchandise, imported, as aforesaid, by the way of New Orleans, at that port, in the manner now prescribed by law; and the Collector shall grant a permit for the landing thereof, and cause the duties to be ascertained as in other cases, the said goods remaining in the custody of the Collector until re-shipped for the place of destination; and the Collector shall certify to the Surveyor at such place the amount of such duties, which the said Surveyor shall enter on the margin of the bond, as aforesaid given to secure the same, which goods shall be delivered by the Collector to the agent of the importer or consignee, duly authorized to receive the same, for shipment to the place of importation, and the master or commander of

every steamboat, or other vessel, in which such merchandise shall be transported, shall, previously to her departure from New Orleans, deliver to the Collector duplicate manifests of such merchandise, specifying the marks and numbers of every case, bag, box, chest, or package, containing the same, with the name and place of residence of every importer or consignee of such merchandise, and the quantity shipped to each, to be by him subscribed, and to the truth of which he shall swear or affirm, and that the said goods have been received on board his vessel; stating the name of the agent, who shipped the same; and the said Collector shall certify the facts, as aforesaid, on the manifests, one of which he shall return to the master, with a permit thereto annexed, authorizing him to proceed to the place of his destination.

Sec. 3. *And be it further enacted*, That, if any steamboat or other vessel, having merchandise on board, imported as aforesaid, shall depart from New Orleans without having complied with the provisions of this act, the master thereof shall forfeit five hundred dollars; and the master of any such boat or vessel, arriving at either of the ports above named, on board of which merchandise, as aforesaid, shall have been shipped at New Orleans, shall within eighteen hours next after the arrival, and previously to unloading any part of said merchandise, deliver to the Surveyor of such port the manifest of the same, certified, as aforesaid, by the Collector of New Orleans, and shall make oath or affirmation before the said Surveyor that there was not, when he departed from New Orleans, any more or other goods on board such boat or vessel, imported as aforesaid, than is therein mentioned; whereupon the Surveyor shall cause the said casks, bags, boxes, chests, or packages, to be inspected, and compared with the manifests, and the same being identified, he shall grant a permit for unloading the same, or such part thereof as the master shall request, and, when a part only of such merchandise is intended to be landed, the Surveyor shall make an endorsement on the back of the manifests, designating such part, specifying the articles to be landed, and shall return the manifests to the master, endorsing thereon his permission to such boat or vessel to proceed to the place of its destination; and, if the master of such steamboat or vessel shall neglect or refuse to deliver the manifests within the time herein directed, he shall forfeit one hundred dollars.

Sec. 4. *And be it further enacted*, That the Collector of the port of New Orleans shall permit no entry to be made of goods, wares, or merchandise, where the duty on the same shall exceed the amount of the bond deposited with the Surveyor, as aforesaid, nor shall the said Surveyor receive the bond of any person not entitled to a credit at the custom house, or for a sum less than fifty dollars, and that, when the said bond shall have been completed, and the actual amount of duty ascertained and certified on the margin, as aforesaid, it shall be the duty of the Surveyor of the port where the bond is taken, to deposit the same for collection in such bank as may be directed by the Secretary of the Treasury.

Sec. 5. *And be it further enacted*, That where Surveyors are not already appointed in any of the places mentioned in the first section of this act, a suitable person shall be appointed for such places, and on all such Surveyors, whether appointed or to be appointed, shall devolve the duties prescribed by this act in addition to the customary duties performed by that officer in other places; and the Surveyor at each of said places shall, before taking the oath of office, give security to the United States for the faithful performance of all his duties, in the sum of ten thousand dollars, and shall receive in addition to his customary fees, an annual salary of three hundred and fifty dollars *Provided*, that no salary arising under this act, shall commence until its provisions shall take effect, and merchandise may be imported under its authority.

Sec. 6. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act shall be sued for, recovered, distributed and accounted for, in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed on the second day of March, one thousand seven hundred and ninety-nine, and may be mitigated or remitted in the manner prescribed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," passed on the third day of March, one thousand seven hundred and ninety-seven.

Approved, March 2, 1831.

AN ACT to repeal the act to establish the District of Blakely.

*Be it enacted*, &c. That the act, entitled "An act to establish the District of Blakely," approved the seventeenth day of April, eighteen hundred and twenty-two, be, and the same is hereby, repealed.

Approved, March 2, 1831.

AN ACT for the relief of Samuel Nowell.

*Be it enacted*, &c. That the Secretary of War cause to be paid to Samuel Nowell, of New Hampshire, a pension of eight dollars per month during his natural life, commencing on the fourth day of March, one thousand eight hundred and thirty.

Approved, March 2, 1831.

AN ACT to incorporate a Fire Insurance Company in Georgetown, in the District of Columbia.

*Be it enacted*, &c. That the subscribers to this company, their successors and assigns, shall be, and they are hereby, created a body politic and corporate, by the name and style of the "Potomac Fire Insurance Company of Georgetown;" and shall by that name have succession, and shall be able to sue and be sued, implead and be impleaded, in all courts of law in the United States, and to make and use one common seal, and the same to alter and amend at their pleasure.

Sec. 2. *And be it further enacted*, That subscriptions be opened in Georgetown, in the District aforesaid, under the direction of Francis Dodge, Raphael Semmes, Walter Smith, John Kurtz, William S. Nicholls, L. G. Davidson, John Marbury, Joel Cruttenden, O. M. Linthicum, James Dunlop, William G. Ridgeley, Samuel Humphreys, and William Hayman, as Commissioners, or a majority of them, for raising a capital stock of two hundred thousand dollars, divided into eight thousand shares of twenty-five dollars each.

Sec. 3. *And be it further enacted*, That the said Commissioners, after giving ten days previous notice of the time and place for receiving subscriptions of the said stock, shall proceed to receive the same; and should the number of shares subscribed exceed the number of which the capital stock consists, then, and in such case, the said Commissioners are hereby authorized and directed so to apportion the shares subscribed among the several subscribers, by proportional reduction, as may reduce the whole to the aforesaid number of eight thousand shares.

Sec. 4. *And be it further enacted*, That the sum of one dollar on each share shall be paid to the Commissioners at the time of subscribing, and a further sum of four dollars on each share of stock by instalments, after giving thirty days previous notice to the stockholders, in one or more newspapers printed in the District of Columbia, not exceeding two dollars on each share; and that the remainder of the said twenty-five dollars shall be secured by notes payable on demand, signed and endorsed to the satisfaction of the President and Directors. The said notes shall be renewed whenever the directors may con-

sider it proper; but the directors are hereby required to cause the same to be renewed at least once in every twelve months; and every stockholder neglecting or refusing to renew his vote, or neglecting or refusing to pay any installment, when required by the President and Directors so to do, shall forfeit all his interest in this company, and be held liable for his proportion of any loss which may have occurred previous to such neglect or refusal.

Sec. 5. *And be it further enacted*, That should any forfeiture be incurred by any member of this institution, the same may be annulled, remitted, and made void by a majority of the whole board of directors present at the meeting at which the motion for such remission shall be made: *Provided*, That no remittance of any forfeiture under this act shall take place without the payment of the principal of said instalment, and interest thereon, or the renewal of his note, as required by the directors, as also the payment of his proportion of such loss as may have occurred previous to such forfeiture.

Sec. 6. *And be it further enacted*, That, as soon as two thousand shares shall be subscribed for, the Commissioners hereby authorized to receive subscriptions shall call a meeting of the subscribers, after giving ten days notice, in one or more of the newspapers printed in the District of Columbia; and the subscribers who shall assemble in consequence of such notice, or appear by proxy, shall choose by ballot from among the stockholders, by a majority of votes, twelve directors, who shall continue in office until the first Monday in August, in the year one thousand eight hundred and thirty-one; on which Monday in August, in every succeeding year thereafter, an election shall be held for twelve directors as aforesaid, who shall continue in office for one year from the time of their election, and until others shall be chosen in their stead; and the said directors, at their first meeting, shall choose from among themselves, or from the stockholders at large, a President, and allow him a reasonable compensation for his services; and, in case of death, removal, resignation, or other disqualification of the President or any of the Directors, the remaining directors may elect others to supply their places during the remainder of the term for which they were chosen.

Sec. 7. *And be it further enacted*, That every subscriber be entitled to vote by himself, his agent or proxy, appointed under his hand and seal, attested by two witnesses, at all elections made by virtue of this act; and shall have as many votes as he holds shares, as far as ten shares; one vote for every five shares which he may hold over ten shares as far as fifty other shares; and one vote for every twenty shares which he may hold over sixty shares.

Sec. 8. *And be it further enacted*, That the affairs of this institution shall be conducted by the president and directors elected as aforesaid; that the president shall preside at all meetings of the directors, and, in case of absence, his place may be supplied by one of the directors, appointed by the board; that the president and directors shall have power and authority to make all kinds of insurances against loss or damage by fire, and insurances on inland transportation of goods, wares, merchandise, and country produce, not exceeding ten thousand dollars in any one policy, and to invest the funds of the institution in stock, or dispose of the same in such manner as in their judgment may be most advantageous to the said institution; that they shall have full power and authority to appoint a Secretary, and such other clerks and servants under them as shall be necessary for transacting the business of the said institution, and may allow them such salary as they shall judge reasonable; to ordain and establish such by-laws, ordinances, and regulations, as shall appear to them necessary for regulating and conducting the concerns of the said institution, not being contrary to, or inconsistent with, this act, or the laws and

Constitution of the United States; that the said president and directors shall conduct business in Georgetown, that they shall keep full, fair, and correct entries of their transactions, which shall be at all times open to the inspection of the stockholders; they shall also have power to hire or purchase a suitable building or buildings in Georgetown, for the purpose of transacting the affairs of the institution; that the president, or such other person as may be appointed in his place, and four directors, shall form a quorum for transacting business, and all questions which may come before them shall be decided by a plurality of votes.

Sec. 9. *And be it further enacted*, That all policies of insurance made by this corporation shall be signed by the President, attested by the Secretary, and sealed with the common seal thereof; and all losses on any such policy or policies shall be adjusted by the president and board of directors, and paid, agreeably to the terms of the policy, out of the funds of the company.

Sec. 10. *And be it further enacted*, That dividends of the nett profits arising on the capital stock, or so much thereof as to them may appear advisable, after reserving one-third of the nett profits as a surplus fund, until it shall amount to the sum of twenty thousand dollars, shall be made at such periods as the president and directors may judge proper, not oftener than once in six months, and the same shall be paid to the stockholders or their legal representatives; but if a dividend shall at any time be declared of a greater amount than the nett profits of the said company at the time of making the same, each and every director that consented thereto, shall, and is hereby declared to be liable for, in his individual capacity, and bound to contribute to make good the deficiency in the capital stock occasioned by such improper dividend.

Sec. 11. *And be it further enacted*, That no stockholder shall be answerable, in his person or individual property, for any contract or agreement of said company, or for any losses, deficiencies, or failures, of the capital stock of said institution, except in the case of a director declaring an improper dividend, as before provided for in the tenth section of this act; but the whole of the said capital stock, together with all property, rights, and credits, belonging thereto, and nothing more, shall at any time be answerable for the demands against the said company.

Sec. 12. *And be it further enacted*, That the stock of this institution is hereby declared personal and not real estate, and may be assigned and transferred on the books of the company, in person or by power of attorney only; but no stockholder indebted to the company shall be permitted to make a transfer, or receive a dividend, until such debt is paid or secured to the satisfaction of the president and board of directors.

Sec. 13. *And be it further enacted*, That this act shall be and continue in force until the first day of December, in the year one thousand eight hundred and fifty, and until the end of the next session of Congress which shall happen thereafter; and on the dissolution or expiration of this charter, the president and directors for the time being shall take prompt and effectual measures for closing all its concerns; but no such dissolution or expiration shall operate so as to prevent any suits to be brought or continued by or against the said corporation, for any debt or claim due by or to, the same, and which arose previously to said dissolution or expiration; but for the purpose of closing its concerns, its corporate powers shall remain unimpaired.

Approved, March 2, 1831.

AN ACT to provide for the further compensation of the Marshal of the District of Rhode Island.

*Be it enacted, &c.* That the Marshal of the District of Rhode Island shall be entitled to receive in addition to



the compensation now allowed by law, an annual salary of two hundred dollars, payable quarterly, out of any money in the Treasury, not otherwise appropriated.

Approved, March 2, 1831.

AN ACT for the relief of certain holders of certificates issued in lieu of lands injured by earthquakes in Missouri.

*Be it enacted, &c.* That the legal owners of any certificates of new location issued under the act of seventeenth of February, one thousand eight hundred and fifteen, for the relief of persons whose lands were injured by earthquakes in Missouri, which may have been located upon lands, any part of which has been adjudged to any person or persons as a right of pre-emption, shall be authorized to locate such warrants upon such lands as are liable to entry at private sale: *Provided*, That previous to making such new location, the legal owners aforesaid shall relinquish to the United States all claim to the previous location: *And Provided further*, That such locations shall be made and patents issued therefor, under the same regulations, and restrictions, as if the locations had been made under the provisions of the second section of the act of the twenty-sixth of April, one thousand eight hundred and twenty-two, entitled, "An act to perfect certain locations and sales of the public lands in Missouri."

SEC. 2. *And be it further enacted*, That this act shall remain in force for the term of eighteen months from the passage thereof.

Approved, March 2, 1831.

AN ACT for the relief of James Belger.

*Be it enacted, &c.* That the Secretary of War be, and he is hereby, authorized and required to place the name of James Belger on the list of invalid pensioners, and to pay him at the rate of four dollars per month, to commence on the first day of January, one thousand eight hundred and thirty-one.

Approved, March 2, 1831.

AN ACT to rectify the mistake in the name of William Turney, an invalid pensioner.

*Be it enacted, &c.* That the name of "William Turney" in the fifth section of the act, approved the twentieth of May, eighteen hundred and thirty, entitled "An act for the relief of sundry revolutionary and other officers and soldiers, and for other purposes, be changed to *William Turney*, and that the said *William Turney* and no other, may have and enjoy all the relief and benefit granted by the said act to "*William Turney*."

Approved, March 2, 1831.

AN ACT for the relief of Daniel Jackson and Lucius M. Higgins, of Newbern, North Carolina.

*Be it enacted, &c.* That there shall be issued, under the direction of the Secretary of the Treasury, a register for the schooner *Julia D. Ramsey*, built in Quebec, but now owned by Daniel Jackson and Lucius M. Higgins, citizens of the United States, and lying at the port of Newbern, in North Carolina, whenever the said Jackson and Higgins shall furnish the Secretary of the Treasury with satisfactory proof that the said schooner has been repaired in the United States, and that the cost of repairing her, by her present owners, exceeds three-fourths of the original cost of building a vessel of the same tonnage in the United States.

Approved, March 2, 1831.

AN ACT for the relief of William Delzell, of Ohio.

*Be it enacted, &c.* That the Secretary of War be, and he is hereby, authorized and required to place the name

of William Delzell, on the list of revolutionary pensioners, and to pay him at the rate of eight dollars per month, to commence on the first day of January, eighteen hundred and thirty-one.

Approved, March 2, 1831.

AN ACT declaring the assent of Congress to an act of the General Assembly of the State of Ohio, hereinafter recited.

*Be it enacted, &c.* That the consent of the United States shall be, and is hereby given to an act of the General Assembly of the State of Ohio, entitled "An act for the preservation and repair of the United States' road," passed the fourth day of February, in the year of our Lord one thousand eight hundred and thirty-one, which act is in the words and figures following, to wit:

*'Be it enacted by the General Assembly of the State of Ohio*, That whenever the consent of the Congress of the United States to this act shall be obtained, the Governor of this State shall be, and he is hereby authorized to take under his care, on behalf of this State, so much of the road, commonly called the National Road, within the limits of this State, as shall then be finished, and also, such other sections, or parts thereof, as may thereafter be progressively finished within the limits aforesaid, whenever the same shall be completed; and he shall be, and is hereby authorized to cause gates and toll-houses to be erected on said road, at such finished parts thereof as he shall think proper, for the purpose of collecting tolls, as provided by the fourth section of this act: *Provided*, The number of gates aforesaid shall not exceed one on any space or distance of twenty miles.

SEC. 2. That a superintendent shall be appointed by the Governor, whose duty shall be to exercise all reasonable vigilance and diligence in the care of the road committed to his charge; to contract for and direct the application of the labor, materials, and other things necessary for the preservation, repair, and improvement thereof; he shall pay for the same out of such sums as the Governor shall furnish him for that purpose, subject to such responsibility and accountability as the said Governor shall dictate; and shall conform to such instructions as the Governor shall prescribe for his conduct, in all particulars relative to his said trust: he may be empowered to suspend the functions of any toll-gatherer for alleged misconduct, till the pleasure of the Governor shall be known, and to fill the vacancy thereby occasioned during such interval; and it shall be his duty to give information of the facts in such case to the Governor, without any unnecessary delay: the said superintendent shall hold his office during the pleasure of the Governor, who shall allow him a reasonable compensation for his services.

SEC. 3. That the Governor be, and he is hereby authorized to appoint the necessary collectors of tolls, and to remove any of them at his pleasure; and also, to allow them, respectively, such stipulated compensation as he may deem reasonable. It shall be the duty of each and every toll-collector to demand and receive, at the gate or station assigned him by the Governor, the tolls prescribed and directed by the fourth section of this act; and to pay monthly into the treasury, according to the directions they may receive from the Treasurer of the State, all the moneys so collected by said collectors, that shall remain, after deducting their compensation aforesaid; the said collectors shall be governed, in all respects relative to their office, by such regulations as the Governor shall ordain, in order to ensure a due responsibility and faithful discharge of their duties.

SEC. 4. That, as soon as the said gates and toll-houses shall be erected, it shall be the duty of the said toll-collectors, and they are hereby required, to demand

and receive for passing the said gates the tolls and rates hereafter mentioned; and they may stop any person riding, leading, or driving any horses, cattle, sulky, chair, phaeton, cart, chaise, wagon, sleigh, sled, or other carriage of burden or pleasure, from passing through the said gates, until they shall respectively have paid for passing the same, that is to say: for every space of twenty miles in length on said road, the following sums of money, and so in proportion for every greater or lesser distance, to wit: For every score of sheep or hogs, ten cents; for every score of cattle, twenty cents; for every led or drove horse, three cents; for every mule or ass, led or driven, three cents; for every horse and rider, six and one fourth cents; for every sled or sleigh drawn by one horse or ox, twelve and one half cents; for every horse or ox in addition, six and one fourth cents; for every dearborn, sulky, chair, or chaise, with one horse, twelve and one half cents; for every horse in addition, six and one fourth cents; for every chariot, coach, coachee, stage or phaeton, with two horses, eighteen and three fourth cents; for every horse in addition, six and one fourth cents; for every other carriage of pleasure, under whatever name it may go, the like sum, according to the number of wheels and horses drawing the same; for every cart or wagon whose wheels do not exceed the breadth of two and one half inches, twelve and one half cents; for each horse or ox drawing the same, six and one fourth cents; for every cart or wagon whose wheels shall exceed two and one half inches in breadth, and not exceeding four inches, six and one fourth cents; for every horse or ox drawing the same, three cents; and for every other cart or wagon whose wheels shall exceed four inches, and not exceeding five inches in breadth, four cents; for every horse or ox drawing the same two cents; and all other wagons or carts whose wheels shall exceed six inches in breadth, shall pass the said gates free and clear of all tolls: *Provided*, That nothing in this act shall be construed so as to authorize any tolls to be received or collected from any person passing to or from public worship, or to or from any musters, or to or from his common business on his farm or wood land, or to or from a funeral, or to or from a mill, or to or from his common place of trading or marketing, within the county in which he resides, including their wagons, carriages, and horses or oxen drawing the same: *Provided, also*, That no toll shall be received or collected for the passage of any stage or coach conveying the United States' mail, or horses bearing the same, or any wagon or carriage laden with the property of the United States, or any cavalry or other troops, arms or military stores belonging to the same, or to any of the States comprising this Union, or any person or persons on duty in the military service of the United States, or of the militia of any of the States.

Sec. 5. That the moneys so collected shall constitute a fund, to be denominated the United States' Road Fund; and so much thereof as may be paid into the Treasury agreeably to the provisions above recited, shall be subject to the order of the Governor, who shall pay out of said fund the salary of the Superintendent, and the expenses incident to the superintendence and collection, other than those particularly provided for in this act, and shall cause the remaining nett proceeds of the revenue collected as abovementioned to be applied solely and exclusively to the preservation, repair, and improvement of said road, and to no other purpose whatever.

Sec. 6. That directors shall be set up at proper and convenient situations, to caution all conductors or drivers of carriages on the road aforesaid, that they shall at all times pass on the left of each other, under the penalty of five dollars for every offence: and there shall also be set up at some conspicuous place at each gate, a board,

on which shall be legibly painted the rates of toll, as is provided for in this act.

Sec. 7. That if any of the toll collectors shall unreasonably delay or hinder any passenger or traveller, at any of the gates, or shall demand or receive more toll than is by this act established, he shall, for each and every such offence, forfeit and pay to the party aggrieved the sum of ten dollars.

Sec. 8. That, if any person shall purposely or maliciously deface, or otherwise injure any of the mile stones, parapet walls, culverts, or bridges, or any of the masonry whatsoever, or any of the gates or toll houses of and belonging to the said national road in this State, as the same is now constructed, or may hereafter be constructed, every person so offending shall, upon conviction thereof, be fined in a sum not more than five hundred dollars, or be imprisoned in the dungeon of the jail of the county, and be fed on bread and water only, not exceeding twenty days, or both, at the discretion of the court.

Sec. 9. That if any person shall purposely fill, choke, or otherwise obstruct any of the side drains, valleys, gutters, or culverts of said road, now made or hereafter to be made, or shall connect any private road or cartway with the said national road, without making at the point of connexion a stone culvert, or paved valley, or other good and sufficient fixture, so as to secure a free passage for the water along such side drain, where such private road or cartway connects with the said national road, or if any person shall purposely or wilfully travel upon such parts of said national road as are or may be in an unfinished state, against the consent of the Superintendent appointed by the United States, or by this State; or shall remove any of the Beacons placed upon the said road so in an unfinished state as aforesaid, for the diverting of the travel on and from said road, every person so offending shall, upon conviction thereof, be, for every such offence, fined in a sum not less than one nor more than ten dollars.

Sec. 10. That if any person shall stand his wagon and team, or either of them, over night, upon the pavement of said road, now made, or which may hereafter be made, or shall at any other time stand a wagon and team, or either of them, upon the said pavement for the purpose of feeding, or if he shall in any other manner purposely and wilfully obstruct the travel upon said road, every person so offending shall, upon conviction thereof, for every such offence, be fined in a sum not less than one nor more than five dollars.

Sec. 11. That if any person shall fast lock or rough lock either of the wheels of any wagon, coach, chaise, gig, sulkey, carriage, or other two or four wheeled vehicle, while travelling upon the pavement of said road, as now made, or which may hereafter be made, (excepting, however, such parts of said road, as may be, at the time of such locking, covered with ice,) every person so offending shall, upon conviction thereof, be fined in any sum not less than one nor more than five dollars.

Sec. 12. The supervisors of roads and highways through whose districts the said national road does now, or may hereafter pass, are hereby severally authorized and required, at the connection with, or intersection of, any State, county, or township road, which now is, or hereafter may be established under the laws of this State within their respective districts, to build and keep in repair a good and sufficient stone culvert or paved valley, or other good and sufficient fixture, in such manner as to admit of a free passage for the water along the side drain or drains of said national road at the connection or intersection aforesaid, and according to the grade thereof, as established by the United States' Superintendent of said national road.

'Sec. 13. That, for the purpose of carrying into effect the provisions of this act, the Governor is hereby authorized to draw on the State Treasury for any sum of money not exceeding two thousand dollars, to be paid out of any money in the Treasury not otherwise appropriated: *Provided*, Said sum shall be refunded to the State Treasury out of the proceeds of the road fund created by the provisions of this act, so soon as the same shall be collected.

'Sec. 14. That all fines, penalties, and forfeitures incurred under the provisions of this act, shall be recovered by indictment in the court of common pleas of the county where the offence was committed, or by action of debt, in the name of the State of Ohio, for the use of the road-fund established by this act, which action of debt may be brought before any justice of the peace, or other court having jurisdiction thereof, in the county where the offence was committed, or such fine, penalty, or forfeiture was incurred; and it shall be the duty of the superintendent, toll-gatherers, and of any other person who will complain of the same, to prosecute all offences against the provisions of this act.

'Sec. 15. That it shall be lawful for the General Assembly, at any future session thereof, without the consent of Congress, to change, alter, or amend this act: *Provided*, That the same shall not be so changed, altered, or amended, as to reduce or increase the rates of toll hereby established, below or above a sum necessary to defray the expenses incident to the preservation and repair of said road, to the erection of gates and toll-houses thereon, and for the payment of the fees or salaries of the superintendent, the collectors of tolls, and of such other agents as may be necessarily employed in the preservation and repair of the same, according to the true intent and meaning of this act.

'Sec. 16. That any person or persons shall have the privilege of paying at either of the said gates, at the rates specified in this act, the amount of toll for any distance which such person or persons may desire to travel on said road, and receive a certificate thereof from the collector of tolls at such gate, which certificate shall be a sufficient voucher to procure the passage of such person or persons through any other gate or gates named in said certificate: *Provided*, That printed forms of such certificates shall be furnished by the superintendent to be appointed under the provisions of this act to each collector of tolls, and shall be countersigned by such superintendent, and otherwise so devised as to prevent fraud or imposition; and no certificate shall be considered as valid under this section, unless such certificate shall be authenticated as aforesaid.

'Sec. 17. That the act entitled "An act for the prevention of injuries to the National Road in Ohio," passed February eleventh, eighteen hundred and twenty-eight, be, and the same is hereby repealed; *Provided*, however, That all actions and prosecutions which may now be pending shall be prosecuted to final judgment and execution, and all offences committed before the taking effect of this act, shall be prosecuted and punished in the same manner as if the above mentioned act was not repealed.'

Approved: March 2, 1831.

AN ACT to regulate the Foreign and Coasting Trade on the Northern, North-eastern, and North-western frontiers of the United States, and for other purposes.

*Be it enacted, &c.* That, from and after the first day of April next, no custom-house fees shall be levied or collected on any raft, flat, boat, or vessel of the United States, entering otherwise than by sea, at any port of the United States on the rivers and lakes on our Northern, North-eastern, and North-western frontiers.

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Sec. 2. *And be it further enacted*, That from and after the first day of April next, the same and no higher tonnage duties and custom-house charges of any kind shall be levied and collected on any British colonial raft, flat, boat, or vessel, entering otherwise than by sea, at any port of the United States on the rivers and lakes on our Northern, North-eastern, and North-western frontiers, than may be levied and collected on any raft, flat, boat, or vessel, entering otherwise than by sea, at any of the ports of the British possessions on our Northern, North-eastern, and North-western frontiers; and that, from and after the first day of April next, no higher discriminating duty shall be levied or collected on merchandise imported into the United States, in the ports aforesaid, and otherwise than by sea, than may be levied and collected on merchandise when imported in like manner, otherwise than by sea, into the British possessions on our Northern, North-eastern, and North-western frontiers from the United States.

Sec. 3. *And be it further enacted*, That from and after the passage of this act, any boat, sloop, or other vessel of the United States, navigating the waters on our Northern, North-eastern, and North-western frontiers, otherwise than by sea, shall be enrolled and licensed in such form as may be prescribed by the Secretary of the Treasury; which enrollment and license shall authorize any such boat, sloop, or other vessel, to be employed either in the coasting or foreign trade; and no certificate of registry shall be required for vessels so employed on said frontiers: *Provided*, That such boat, sloop, or vessel, shall be, in every other respect, liable to the rules, regulations, and penalties, now in force, relating to registered vessels on our Northern, North-eastern, and North-western frontiers.

Sec. 4. *And be it further enacted*, That in lieu of the fees, emoluments, salary, and commissions, now allowed by law to any collector or surveyor of any district on our Northern, North-eastern, and North-western lakes and rivers, each collector or surveyor, as aforesaid, shall receive annually, in full compensation for these services, an amount equal to the entire compensation received by such officer during the past year.

Approved: March 2, 1831.

AN ACT declaratory of the law concerning Contempts of Court.

*Be it enacted, &c.* That the power of the several courts of the United States to issue attachments and inflict summary punishments for contempts of court, shall not be construed to extend to any cases except the misbehaviour of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehaviour of any of the officers of the said courts in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.

Sec. 2. *And be it further enacted*, That if any person or persons shall, corruptly, or by threats or force, endeavor to influence, intimidate, or impede any juror, witness, or officer, in any court of the United States, in the discharge of his duty, or shall, corruptly, or by threats or force, obstruct or impede, or endeavor to obstruct or impede, the due administration of justice therein, every person or persons so offending, shall be liable to prosecution therefor by indictment, and shall, on conviction thereof, be punished by fine, not exceeding five hundred dollars, or by imprisonment not exceeding three months, or both, according to the nature and aggravation of the offence.

Approved: March 2, 1831.

21st Cong. 2d Sess.]

Laws of the United States.

AN ACT for the relief of the legal representatives of Peter Celestino Walker and John Peter Walker, deceased, and of Joseph Walker, of the State of Mississippi.

*Be it enacted, &c.* That the legal representatives of Peter Celestino Walker, deceased, be, and they are hereby authorized to enter and locate on any of the public lands of the United States, in the State of Mississippi, which have been offered for sale at public sale, and are now subject to entry at private sale, the quantity of five hundred acres of land, in legal subdivisions, in lieu of the quantity of five hundred acres of land granted to the said Peter C. Walker, by the Spanish Government, by warrant and order of survey, which has been sold by the United States. And that the legal representatives of John Peter Walker, deceased, be, and they are hereby authorized to enter and locate on any of the public lands of the United States, in the State of Mississippi, which have been offered for sale, and are now subject to entry at private sale, five hundred acres of land, in legal subdivisions, in lieu of the quantity of five hundred acres, granted to the said John Peter Walker, by the Spanish Government, by warrant and order of survey, which has been sold by the United States.

Sec. 2. *And be it further enacted,* That Joseph Walker be, and he hereby is authorized, to enter and locate on any of the public lands of the United States, in the State of Mississippi, which have been offered at public sale, and are now subject to entry at private sale, five hundred acres of land, by legal subdivisions, in lieu of five hundred acres granted to the said Joseph Walker by the Spanish Government, by warrant and order of survey, which has been sold by the United States.

Approved : March 2, 1831.

AN ACT for the relief of William T. Carroll, Clerk of the Supreme Court of the United States.

*Be it enacted, &c.* That the sum of two thousand dollars be appropriated, to be paid by the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to compensate William T. Carroll, Clerk of the Supreme Court, for engrossing the minutes of the said Court, from August term, eighteen hundred and twenty, to August term, eighteen hundred and twenty-six; for transcribing the causes decided in said Court for thirty-one terms, entering under each cause all motions, orders, continuances, judgments, decrees, and other proceedings; and also, for arranging and labelling the documents of the said Court; all which services not pertaining to the regular official duties of the said Carroll, were performed in obedience to an order of the Court, made at January term, eighteen hundred and twenty-seven.

Approved : March 3, 1831.

AN ACT for the relief of Beverly Chew, the heirs of William Emerson, deceased, and the heirs of Edwin Lorraine, deceased.

WHEREAS, the brig Joseph Secunda was condemned in the name of the United States, in the District Court of the United States for the Louisiana District, in the year one thousand eight hundred and eighteen, on the seizure and prosecution, and at the sole expense of Beverly Chew, Collector of the District of Mississippi, William Emerson, deceased, surveyor, and Edwin Lorraine, deceased, naval officer of the port of New-Orleans, for an infraction of the slave laws: AND WHEREAS, the one half of the proceeds of the said brig and her cargo are now deposited, subject to the order of the said Court, which half would have been payable to the said Beverly Chew, William Emerson, and William Lorraine, but for an omission in the laws heretofore passed on that subject: Therefore,

*Be it enacted, &c.* That the District Court of the United States, for the Louisiana District, be authorized and directed to order the proceeds of the said seizure now deposited, subject to the order of the said Court, to be paid over to the said Beverly Chew, and the legal representatives of the said William Emerson and Edwin Lorraine, respectively.

Approved, March 3, 1831.

AN ACT making appropriations for building light-houses, light-boats, beacons, and monuments, and placing buoys.

*Be it enacted, &c.* That the following appropriations be, and the same are hereby, made, and directed to be paid out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Treasury to provide, by contract, for building light-houses, light-boats, beacons, and monuments, and placing buoys, to wit:

*State of Maine.* Four thousand dollars for a light-house at the western entrance of Fox Island thoroughfare;

Six thousand dollars for a light-house at or near Cape Porpoise;

Four thousand dollars for increasing the height of the light-house on Boon Island;

Four thousand dollars for a light-house at or near Marshal's Point, in the town of St. George;

Six thousand dollars for re-building the light-house at Whitehead;

Six thousand dollars for re-building the light-house on Franklin Island;

Five hundred and ten dollars for spindles and buoys in Penobscot River.

*State of Massachusetts.* Five thousand dollars for building a light-house on the monument at Gloucester Point;

One thousand dollars for erecting a monument on or near Cohasset Rocks;

Two hundred and fifty dollars in addition to an unexpended balance of a former appropriation, for erecting a spindle-beacon on Minot's Ledge, and placing a buoy on Hospital Island Ledge, near George's Island;

Twelve hundred dollars for erecting a monument upon a ledge of rocks situated at the outer part of the harbor of Swampscut;

One thousand dollars for two monuments, one on Sunken Island, and the other on Pig Rocks, in Braintree Bay;

Five hundred dollars for placing ten buoys in the northern channel through the Vineyard Sound, at the following places: one on Point Rips; one on the Shovel Shoals, near Monomoy Point; three on the Handkerchief, northeast, southeast, and southwest parts; one on a rock near Hyannis Harbor, in the channel; and two on the Broad Shoal to the eastward of Falmouth east, and west parts;

Five thousand dollars for rebuilding a light-house on Cape Cod, should it be deemed expedient by the Secretary of the Treasury;

Four hundred dollars for placing six buoys on ledges and rocks at a place called Wood's Hole, near Falmouth; and a spindle on Lone Rock, near that place.

*State of Rhode Island.*—For a beacon-light at or near the entrance of the harbor of Wickford, in the town of North Kingston, three thousand dollars.

Fifty dollars for a spindle on the Halfway Rock between the islands of Rhode Island and Connecticut.

*State of Connecticut.*—Five thousand dollars for building a light-house at or near Morgan's Point, on the north side of Fisher's Island Sound, in the township of Groton.

Four hundred dollars for a spindle to be erected on the Whale Rock, at the entrance of Mystic River, and

for one on Turner's Reef, situated about one-third of the distance from the main land to Fisher's Island.

Three thousand dollars for erecting a beacon on the beach near the west side of the New Haven harbor; and two hundred and fifty dollars for buoys on Pardee's Bar, Black Rock Bar, and the Shag Banks in said harbor.

Six thousand and two hundred dollars for erecting a monument or beacon on Branford Reef, in Long Island Sound.

Two hundred and fifty dollars for placing buoys, viz: one on the north end of Hatchet's Reef, in the Sound; one on the south end of said reef; one on the southeast tail of Saybrook Bar, at the mouth of Connecticut River; and one on the south end of Crane Reef, west of Saybrook.

*State of New York.* Three thousand one hundred and ninety dollars to rebuild the beacon in Black Rock Harbor, should it be deemed expedient by the Secretary of the Treasury;

Four thousand dollars for erecting a beacon-light on a proper site near Sackett's Harbor, in Lake Ontario;

Three thousand dollars for erecting a beacon light at the junction of Rondout Creek and Hudson River, or on or near the Esopus Meadows, as may be deemed most expedient by the Secretary of the Treasury;

One thousand dollars for erecting a beacon on the middle ground between Stratford and Crane Neck, in Long Island Sound;

Twelve thousand five hundred and twelve dollars, in addition to the unexpended balance of former appropriations for erecting a light-house, and forming the foundation for the same, in the harbor of Buffalo.

*State of Pennsylvania.* Two thousand five hundred dollars for erecting a beacon-light at the end of the pier which forms the entrance into the harbor of Erie, on Lake Erie;

*State of Delaware.* Fifteen hundred dollars for erecting a beacon light near the mouth of Mispillion Creek;

Ten thousand dollars for building a light house at Mahon's Ditch, in addition to what remains unexpended of an appropriation to build a light-house at Duck Creek, and which last named appropriation is hereby transferred to the first mentioned object.

*State of Maryland.* Five thousand dollars for building a light-house on or near Turkey Point, at the mouth of Elk River;

For erecting a beacon-light on Lazaretto Point, at the entrance of the harbor of Baltimore, or on the point of land upon which Fort McHenry is situated, in the discretion of the Secretary of the Treasury, two thousand five hundred dollars.

For a floating light at the Wolf Trap, in the Chesapeake Bay, twelve thousand dollars;

Four hundred dollars for placing buoys at the entrance of the harbor of Annapolis.

*State of Virginia.* Seven thousand and five hundred dollars for building a light-house on one of the Chingoteague islands;

Five hundred dollars for placing in the Potomac River three buoys on the Kettle Bottoms, one on Port Tobacco Shoals, one in Nanjemoy Reach, one on Ragged Point Bar, and on Parsimmon Bar.

*State of North Carolina.* Eleven thousand dollars for building a light boat, to be stationed at or near Brant Island Shoal, in Pamlico Sound;

For a buoy, to be placed on the bar near Harbor Island, two hundred dollars;

For three buoys to be placed in the river and inlet of Cape Fear twelve hundred dollars.

*State of South Carolina.* Fifteen hundred dollars for constructing three hollow buoys, and placing the same on the bar at or near the entrance of the harbor of Georgetown, in addition to any unexpended appropriation for placing buoys at or near that harbor.

A sum not exceeding one thousand dollars for purchasing land and removing a wind mill on Cape Roman.

*State of Georgia.* For a beacon on the White Oyster Beds, near the mouth of Savannah River, three thousand dollars.

*State of Ohio.* Five thousand dollars for building a light-house on Turtle Island, at the mouth of Maumee Bay, Lake Erie.

One thousand dollars for erecting a beacon-light on the pier at Grand River.

*State of Louisiana.* Forty thousand dollars for building two light-houses, one at the mouth of the southwest pass of the River Mississippi, and the other on the south point between the Southwest Pass and the Balize.

Seven thousand dollars for a light-house at the Rigollets.

*State of Mississippi.* Seven thousand dollars for building a light-house on St. Joseph's Island, or some other suitable place off the Pascagoula Bay.

Seven thousand dollars for a light-house at Pass Christian near the Bay of St. Louis.

For buoys to be placed at the south pass, and the pass at Dauphin Island, four hundred dollars.

*State of Alabama.* Five hundred dollars for placing buoys in Mobile Bay.

*State of Illinois.* Five thousand dollars for building a light-house at the mouth of Chicago River, Lake Michigan.

*Michigan Territory.* Five thousand dollars for building a light-house at the confluence of the St. Joseph's River with Lake Michigan.

Five thousand dollars for a light house on the Outer-thunder Bay Island in Lake Huron.

A sum not exceeding ten thousand dollars for building a light-boat to be stationed in the strait connecting Lakes Huron and Michigan; and three hundred and fifty dollars for buoys and placing the same on the flats at the head of Lake St. Clair.

*Florida Territory.* Eleven thousand four hundred dollars for building a light-house on the west end of St. George's Island, near the entrance of Appalachicola Bay.

Four hundred dollars for placing buoys in the said bay between St. George's Island, and the entrance of the Appalachicola River.

Two hundred dollars for placing buoys in the Bay and River of St. Mark's.

One hundred and sixty dollars for placing buoys at St. Augustine, and in St John's River.

Five thousand dollars for building a light-house on a suitable site at or near Port Clinton.

Approved, March 3, 1831.

AN ACT for the benefit of Percis Lovely, and for other purposes.

*Be it enacted, &c.* That the tract of land not exceeding one half section, including the present residence of Mrs. Percis Lovely, in Pope county, in the Territory of Arkansas, shall be reserved by the President of the United States from public sale, during the lifetime of said Percis, and that she shall have the entire use and privilege of, and possession of the said half section of land, for and during her life: *Provided,* That the said Percis Lovely, shall not commit, or permit any other person to commit, on said land, any voluntary waste.

Sec. 2. *And be it further enacted,* That the Secretary of the Treasury pay unto the said Percis Lovely or her legal representative, out of any money in the Treasury of the United States not otherwise appropriated, a sum equal to that for which her improvements upon the land secured to her by the treaty at Hiawassee, in one thousand eight hundred and seventeen, for life, were valued, and which improvements and land were taken from her by the trea-



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ty at Washington, of one thousand eight hundred and twenty-eight, with the Cherokee Indians. *Provided*, That before the money shall be paid the said Percis Lovely, she shall produce to the Treasury Department satisfactory evidence that the said sum of money has not been heretofore paid her by the Government of the United States, through the Indian Department: and *Provided*, also, That the half section granted by this act, shall not interfere with, or include any lands lying within the limits of any reservation made by the last named treaty, made at Washington as aforesaid, in the year eighteen hundred and twenty-eight.

Sec. 3. *And be it further enacted*, That for carrying into effect the treaty concluded with the Seneca tribe of Indians at Washington, the twenty-eighth day of February, one thousand eight hundred and thirty-one, the sum of eleven thousand one hundred and seventy-five dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated. Approved, March 3, 1831.

AN ACT for the relief of William B. Matthews, trustee.

*Be it enacted*, &c. That there shall be paid to William B. Matthews, trustee for sundry securities of Lawrence Muse, out of any money in the Treasury not otherwise appropriated, the sum of one hundred and seventy-two dollars; being the amount which the said Matthews, as trustee for the securities of the said Muse, overpaid upon a judgment against one of them. Approved: March 3, 1831.

AN ACT for the relief of John Nicks.

*Be it enacted*, &c. That the Secretary of the Treasury be, and he is hereby authorized and directed to pay John Nicks, of Arkansas, two thousand five hundred and sixty-two dollars and eight cents, out of any money in the Treasury not otherwise appropriated, being the amount of a draft, drawn by Colonel David Brearly, Indian agent for the emigrating Creeks, upon the War Department, and protested for non-payment.

Approved, March 3, 1831.

AN ACT for the relief of Brevet Major Riley, and Lieutenants Brook and Seawright.

*Be it enacted*, &c. That the sum of two hundred and ten dollars, out of any money in the Treasury not otherwise appropriated, be, and the same hereby is appropriated, to be paid to Brevet Major Bennet Riley, Lieutenant F. J. Brook, and Lieutenant J. D. Seawright, of the Army of the United States, under the orders of the Secretary of War, for the loss of three horses, captured from them in an action with the Comanche and other Indians, on the Santa Fe trace, in the summer of one thousand eight hundred and twenty-nine, while giving convoy to a caravan of traders from the United States to the Mexican dominions, under the orders of the President of the United States.

Approved: March 3, 1831.

AN ACT for the relief of Duval and Carnes.

*Be it enacted*, &c. That the sum of three thousand eight hundred and twenty-eight dollars and forty-nine cents, be paid to Duval and Carnes, merchants in company, out of any money in the Treasury not otherwise appropriated, in full of all claims for losses and damages sustained by them in consequence of an unlawful seizure of their goods, in the Territory of Arkansas, by Colonel Arbuckle, on the fifth day of May, one thousand eight hundred and twenty-nine.

Approved, March 3, 1831.

AN ACT for the relief of the legal representatives of General Moses Hazen, deceased.

*Be it enacted*, &c. That the Secretary of the Treasury be, and he is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the legal representatives of the said Moses Hazen, the amount of interest due on the sum of thirteen thousand three hundred and eighty-six dollars and two ninetieths of a dollar, a balance found to be due to the said Hazen, agreeably to a resolution of Congress of the twenty-fifth of April, anno domini, seventeen hundred and eighty-one.

Approved, March 3, 1831.

AN ACT for the relief of Benjamin S. Smoot, of Alabama.

*Be it enacted*, &c. That the Secretary of the Treasury be, and he is hereby authorized and directed to pay to Benjamin S. Smoot one thousand dollars, out of any money in the Treasury not otherwise appropriated, being the value of a store house owned by him, and destroyed by order of the officers of the United States, to prevent its being shelter to the British, in their attack upon fort Bowyer, in one thousand eight hundred and fourteen.

Approved, March 3, 1831.

AN ACT for the relief of John Nicholson.

*Be it enacted*, &c. That the proper officers of the Treasury settle and pay to John Nicholson, Marshal of the Eastern District of Louisiana, such sums as may reasonably be due, or may hereafter become due, to him, for the care, custody, maintenance and clothing of such Africans as may have been brought into the port of New Orleans, and legally committed to his custody by order of the Court of the United States for the said district, and that such payment be made out of any funds in the Treasury not otherwise appropriated.

Approved, March 3, 1831.

AN ACT for the relief of John Gough, and other Canadian refugees.

*Be it enacted*, &c. That the President of the United States be authorized to issue to John Gough, of Indiana, a patent for the north-east quarter of section eleven, in township twelve, north of range nine, west, in the Vincennes land district, upon the condition expressed therein, that neither said John, nor any person under him, shall claim any benefit under a patent erroneously issued for the south-east quarter of said section, and alleged to be lost.

Sec. 2. *And be it further enacted*, That the existing laws for the correction of errors in the purchase of the public land shall be equally applicable to erroneous locations of the warrants of the Canadian refugees.

Approved, March 3, 1831.

AN ACT to extend the patent of Samuel Browning for a further period of fourteen years.

*Be it enacted*, &c. That there be, and hereby is, granted unto Samuel Browning, a citizen of the United States, his heirs, administrators, and assigns, for the term of fourteen years from the twenty-fourth day of November, eighteen hundred and twenty-eight, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, his improvement called a "magnetic separating machine," a description of which is given in a schedule annexed to letters patent granted to the said Samuel Browning for the same on the twenty-fifth day of November, eighteen hundred and fourteen.

Approved, March 3, 1831.

AN ACT for the relief of John Culbertson, and to provide an interpreter for the District Court of the United States for the Eastern District of Louisiana.

*Be it enacted, &c.* That the sum of three hundred and thirty-three dollars and thirty-three and one-third cents be paid by the Marshal of the United States for the eastern District of Louisiana to John Culbertson, for his services rendered as interpreter to the United States Court for said District under the provisional appointment of the Judge, for each regular term of said Court, from the December term of one thousand eight hundred and twenty-five, inclusively, up to the time of the passage of this act.

SEC. 2. *And be it further enacted,* That the Judge of the District Court of the United States for the eastern District of Louisiana, be and is hereby, authorized to appoint an interpreter to said Court, and to allow him a compensation not exceeding three hundred and thirty-three dollars and thirty-three and one-third cents, for his services at each regular term of said Court, to be held subsequently to the passage of this act; and the Marshal is authorized to pay the same upon the order of the Judge: *Provided always,* That it shall be the duty of the said interpreter, during his continuance in office, to attend all and every of the called or irregular sessions of the said Court, without any additional compensation therefor: *Provided, also,* That the said interpreter shall not receive, under this act, more than one thousand dollars for each year.

Approved, March 3, 1831.

AN ACT concerning vessels employed in the Whale Fishery.

*Be it enacted, &c.* That all the provisions of the act entitled "An act to authorize the register or enrolment, and license, to be issued in the name of the President or Secretary of any incorporated company owning a steamboat or vessel," passed the third day of March, one thousand eight hundred and twenty-five, shall extend and be applicable to every ship or vessel owned by any incorporated company, and employed wholly in the whale fishery, so long as such ship or vessel shall be wholly employed in the whale fishery.

Approved, March 3, 1831.

AN ACT to create the office of Surveyor of the Public Lands for the State of Louisiana.

*Be it enacted, &c.* That a Surveyor General of the State of Louisiana shall be appointed, who shall have the same authority, and perform the same duties, respecting public lands and private land claims in the State of Louisiana, as are now vested in, and required of the Surveyor of the lands of the United States, south of the State of Tennessee, or the principal deputy Surveyors in the said State; and that from and after the first day of May next, the office of principal deputy Surveyors, as created by the ninth section of the act of Congress of the twenty-first day of April, eighteen hundred and six, entitled "An act supplementary to an act entitled 'An act for ascertaining and adjusting the titles and claims to lands within the territory of Orleans and district of Louisiana,'" be and the same are hereby, abolished; and it shall be the duty of said principal deputy Surveyors to surrender to the Surveyor General of Louisiana, or to such person or persons as he may appoint to receive the same, all the maps, books, records, field notes, documents and articles of every description, appertaining or in any wise belonging to their offices respectively.

SEC. 2. *And be it further enacted,* That the principal deputy Surveyor of the district east of the island of New Orleans be and he hereby is required to separate and arrange the papers in his office; and all the maps, records,

papers and documents of every description which refer to lands in the State of Louisiana, shall be delivered to the order of the Surveyor General for that State; and such of them as refer to lands in the State of Alabama shall be delivered to the Surveyor for the State of Alabama; and such of them as refer to lands in the State of Mississippi, together with such maps, papers, records and documents in the office of said principal deputy Surveyor, as are not hereby required to be delivered to the Surveyor General of the State of Louisiana or to the Surveyor for the State of Alabama shall be delivered to the order of the Surveyor of the lands of the United States south of the State of Tennessee; and the office of said principal deputy shall be, and the same is hereby abolished from and after the first day of May next; and the powers and duties now exercised and performed by the said principal deputy Surveyor shall be vested in and performed by the aforesaid Surveyors, within their respective States.

SEC. 3. *And be it further enacted,* That it shall be the duty of the Surveyor south of the State of Tennessee to deliver to the Surveyor General of the State of Louisiana all the maps, papers, records, and documents relating to the public lands, and private claims in Louisiana, which may be in his office; and in every case where it shall be impracticable to make a separation of such maps, papers, records, and documents, without injury to the portion of them relating to lands in Mississippi, it shall be his duty to cause copies thereof certified by him to be furnished to the Surveyor General of Louisiana, and which copies shall be of the same validity as the originals.

SEC. 4. *And be it further enacted,* That the Surveyor General of Louisiana shall appoint a sufficient number of skilful and experienced Surveyors as his deputies, who, with one or more good and sufficient sureties, to be approved by said Surveyor General, shall enter into bond for the faithful performance of all surveying contracts confided to them in the penalty of double the amount of money accruing under the said contracts at the rate per mile stipulated to be paid therein, and who, before entering on the performance of their duties, shall take an oath, or make affirmation, truly, faithfully, and impartially, to the utmost of their skill and ability, to execute the trust confided to them; and, in the event of the failure of a deputy to comply with the terms of his contract, unless such failure shall be satisfactorily shown by him to have arisen from causes beyond his control, he shall forfeit the penalty of his bond on due process of law, and ever afterwards be debarred from receiving a contract for surveying public lands in Louisiana or elsewhere.

SEC. 5. *And be it further enacted,* That the Surveyor General to be appointed in pursuance of this act shall establish his office at such place as the President of the United States may deem most expedient for the public service; and that he shall be allowed an annual salary of two thousand dollars, and that he be authorized to employ one skilful draughtsman and recording clerk, whose aggregate compensation shall not exceed one thousand five hundred dollars per annum; and that the fees heretofore authorized by law for examining and recording surveys be, and the same are hereby, abolished; and any copy of a plat of survey, or transcript from the records of the office of the said Surveyor General, shall be admitted as evidence in any of the courts of the United States or Territories thereof; and for every copy of a plat of survey there shall be paid twenty-five cents, and for any transcript from the records of said office, there shall be paid at the rate of twenty-five cents for every hundred words by the individuals requiring the same.

SEC. 6. *And be it further enacted,* That, in relation to all such confirmed claims as may conflict, or in any manner interfere with each other, the Register of the Land Office and Receiver of Public Moneys for the proper

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land district are hereby authorized to decide between the parties, and shall in their decision be governed by such conditional lines or boundaries as have been or may be agreed upon between the parties interested, either verbally or in writing; and in case no lines or boundaries be agreed upon between the parties interested, then the said Register and Receiver are hereby authorized to decide between the parties in such manner as may be consistent with the principles of justice; and that it shall be the duty of the Surveyor General of the said State to have those claims surveyed and platted in accordance with the decisions of the Register and Receiver: *Provided*, That the said decisions and surveys, and the patents which may be issued in conformity thereto, shall not in any wise be considered as precluding a legal investigation and decision by the proper judicial tribunal between the parties to any such interfering claims, but shall only operate as a relinquishment on the part of the United States of all title to the land in question.

Sec. 7. *And be it further enacted*, That all the lands to which the Indian title has been extinguished lying north of the northern boundary of the State of Illinois, west of Lake Michigan, and east of the Mississippi River, shall be surveyed in the same manner, and under the same regulations, provisions, restrictions, and reservations as the other public lands are surveyed.

Sec. 8. *And be it further enacted*, That the Legislature of the State of Missouri be, and is hereby, authorized to sell and convey in fee simple all or any part of the lands heretofore reserved and appropriated by Congress for the use of a seminary of learning in said State, and to invest the money arising from the sale thereof in some productive fund, the proceeds of which shall be forever applied by the Legislature of said State solely to the use of such seminary, and for no other use or purpose whatsoever. And that the Legislature of said State of Missouri shall be, and is hereby, authorized to sell and convey in fee simple all or any part of the salt springs not exceeding twelve in number, and six sections of land adjoining to each granted to said State by the United States for the use thereof, and selected by the Legislature of said State, on or before the first day of January, one thousand eight hundred and twenty-five, and to invest the money arising from the sale thereof in some productive fund, the proceeds of which shall be forever applied, under the direction of said Legislature, for the purpose of education in said State, and for no other purpose whatsoever.

Approved, March 3, 1831.

AN ACT for the relief of George B. Dameron and William Howze, of Mississippi.

*Be it enacted*, &c. That the Secretary of the Treasury be and he is hereby, authorized to make a reasonable allowance to the Register and Receiver of the land office at Jackson Court House, Mississippi, for extra services performed by them under the third section of the act of the third March, eighteen hundred and twenty-seven.

Approved, March 3, 1831.

AN ACT for the relief of James Thomas, late Quartermaster General in the Army of the United States.

*Be it enacted*, &c. That the proper accounting officers of the Treasury Department be, and they are hereby authorized and directed to adjust and settle the accounts and claims of Col. Jas. Thomas, late Quartermaster General of the Army of the U. States, and allow him a credit for all vouchers which he shall satisfactorily prove to have been lost for the expenditure of money duly authorized and not heretofore placed to his credit, and that they allow him such compensation for all extra official duties performed and services rendered by him as he is entitled to, if any, according to former regulations and prece-

dents of the Treasury Department: *Provided, however*, That no allowance shall be made in the settlement aforesaid greater than the amount for which the said Thomas is now held liable to the United States.

Approved: March 3, 1831.

AN ACT for the relief of Christopher Bechtler.

*Be it enacted*, &c. That the Secretary of State be, and he is hereby authorized and required to issue letters patent, in the usual form, to Christopher Bechtler, for each of his two machines for the purpose of washing gold ores, upon his compliance with all the provisions of the several acts of Congress relative to the issuing of letters patent for inventions and improvements, except so far as the said acts require, on the part of aliens, a residence of two years in the United States.

Approved: March 3, 1831.

AN ACT for the relief of James Hogland.

*Be it enacted*, &c. That James Hogland, of the State of Indiana, be, and he is hereby authorized to surrender and cancel, at the land office at Indianapolis, in such form as the Secretary of the Treasury may prescribe, his patent for the east half of the southeast quarter of section seventeen, in township fourteen, north, of range three, east, in the district of lands offered for sale at Indianapolis; and that he be permitted to enter, in lieu thereof, and without paying for the same, any other half quarter section in said district, subject to entry at private sale.

Approved: March 3, 1831.

AN ACT granting a pension to Martin Miller.

*Be it enacted*, &c. That the Secretary of War be authorized and directed to place the name of Martin Miller on the list of revolutionary pensioners, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-eight.

Approved, March 3, 1831.

AN ACT for the relief of Joseph S. Cannon.

*Be it enacted*, &c. That the Secretary of the Navy be, and he is hereby, authorized and required to place the name of Joseph S. Cannon on the Navy Pension List, at the rate of ten dollars per month, payable from the first day of January, eighteen hundred and twenty-nine.

Approved: March 3, 1831.

AN ACT for the relief of Antoine Dequindre, and the legal representatives of Louis Dequindre, deceased.

*Be it enacted*, &c. That the Secretary of the Treasury be, and he is hereby authorized and directed to release and discharge Antoine Dequindre, and the legal representatives of Louis Dequindre, deceased, from the payment of three several bonds given to the collector of Detroit, on the twenty-sixth day of February, one thousand eight hundred and seventeen, for the payment of duties on a quantity of goods transported through Canada, from Buffalo to Detroit, amounting, together, to the sum of five hundred and seventy-nine dollars and forty-nine cents: *Provided*, That, if any costs have arisen, by the commencement of suits on either of the said bonds, the same shall be first paid and satisfied by the said Antoine Dequindre, and the legal representatives of Louis Dequindre, deceased.

Approved: March 3, 1831.

AN ACT for the relief of Samuel Coburn of the State of Mississippi.

*Be it enacted*, &c. That the Surveyor General of the public lands south of the State of Tennessee, be, and he is hereby, authorized and required to cause to be sur-

veyed by the proper officer, a certain tract of land, claimed by Samuel Coburn, lying on the waters of Chubby's Fork, of the Bayou Pierre, Claiborne county, Mississippi, originally claimed by William Thomas, by virtue of a Spanish warrant or order of survey, granted to said Thomas on the twenty-first of March, one thousand seven hundred and ninety-five; and that a correct return and plat of the same be made to his office, stating how much of said claim has been sold or confirmed by the United States to Abraham Barnes or any other person.

Sec. 2. *And be it further enacted*, That the said Samuel Coburn is authorized to locate, on any of the public lands within the State of Mississippi, so many acres of the claim above referred to as may be ascertained by said survey and plat, to be sold or confirmed to Abraham Barnes or any other person; and that the remainder of the original Spanish grant to Thomas be, and the same is hereby confirmed to Samuel Coburn: *Provided*, That such confirmation shall only operate as a relinquishment of all right and title on the part of the United States to said land.

Approved: March 3, 1831.

AN ACT for the relief of Woodson Wren, of Mississippi.

*Be it enacted*, &c. That Woodson Wren of the State of Mississippi, be, and he is hereby, confirmed to a tract of land containing eight hundred arpens, situated on the east side of the bay of Biloxi, in the county of Jackson, and State of Mississippi, between Bellfontaine and the old French fort, claimed by virtue of a purchase from Littleberry Robertson, and reported for confirmation by the Register and Receiver of the land office at Jackson Court-house, Mississippi, dated July the twelfth, one thousand eight hundred and twenty-three.

Sec. 2. *And be it further enacted*, That the Commissioner of the General Land Office, upon being presented with plats and certificates of survey of the said tract of land, legally executed by a proper officer, shall issue a patent for the same; which patent shall operate only as a relinquishment, on the part of the United States, of all right and title to said land.

Sec. 3. *And be it further enacted*, That, if it shall appear to the satisfaction of the Commissioner of the General Land Office that the claim herein above alluded to,

or any part thereof, shall have been sold, patented, or confirmed, to any person, previous to the passage of this act, then and in that case, the said Woodson Wren shall be allowed to enter the same number of acres of the claim thus sold, patented, or confirmed, to any other person, or any of the unappropriated lands in the State of Mississippi that may be subject to private entry, conforming, in such entry, to the divisions and subdivisions established by law.

Approved, March 3, 1831.

RESOLUTION, in relation to the transmission of public documents printed by order of either House of Congress.

*Resolved*, &c. That nothing contained in the act to reduce into one the several acts establishing and regulating the Post Office Department, approved March third, one thousand eight hundred and twenty-five, shall be construed to repeal or limit the operation of the act authorizing the transmission of certain documents free of postage, approved December nineteenth, one thousand eight hundred twenty-one.

Approved, January 13, 1831.

A RESOLUTION directing the Secretary of State to subscribe for seventy copies of Peters' condensed reports of decisions of the Supreme Court.

*Resolved*, That the Secretary of the Department of State be, and he is hereby, authorized and directed to subscribe for and receive seventy copies of the condensed reports of cases in the Supreme Court of the United States, edited by Richard Peters, and cause to be distributed one copy thereof to the President of the United States, each of the Justices of the Supreme Court, each of the Judges of the District Courts, the Attorney General of the United States, each of the Heads of Departments, each of the Judges of the several Territories of the United States, five copies thereof for the use of each House of Congress; and the residue of the copies shall be deposited in the Library of Congress: *Provided, however*, That the cost of each volume shall not exceed five dollars.

Approved, March 2, 1831.